

## 16 C.J.S. Constitutional Law § 9

Corpus Juris Secundum | June 2021 Update

### Constitutional Law

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; John Bourdeau, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Michael N. Giuliano, J.D.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D., of the staff of the National Legal Research Group, Inc.; Jill Gustafson, J.D.; Glenda K. Harnad, J.D.; Alan J. Jacobs, J.D.; John Kimpflen, J.D.; Amy L. Kruse, J.D.; Stephen Lease, J.D.; Sonja Larsen, J.D.; Robert B. McKinney, J.D., of the staff of the National Legal Research Group, Inc.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Thomas Muskus, J.D.; Sally J.T. Necheles, J.D., LL.M.; Karl Oakes, J.D. and Eric C. Surette, J.D.

### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### I. Definitions; Nature and Authority of Constitutions

##### B. Nature and Authority of Constitutions

#### 2. Particular Constitutions

##### a. Federal Constitution

## § 9. Federal Constitution as supreme law of the land

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

**The Federal Constitution is the supreme law of the land along with federal statutes and treaties made under the authority of the United States.**

The Federal Constitution, with its amendments, is the supreme law of the land,<sup>1</sup> more than a rule of public order or expression of public policy.<sup>2</sup> The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of persons, at all times and under all circumstances.<sup>3</sup>

As declared by the Supremacy Clause of the United States Constitution,<sup>4</sup> the supreme law of the land is the Federal Constitution and laws of the United States made in pursuance thereof,<sup>5</sup> together with treaties made under the authority of the United States.<sup>6</sup>

***Premature review of state laws.***

Although the Federal Constitution and laws of the United States are the supreme law of the land, and state legislation may not contravene federal law, the federal government does not have a general right to review and veto state enactments before they go into effect.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

The Supreme Court decision in *Planned Parenthood v. Casey*, which held that the undue burden test, rather than the trimester framework, should be used in evaluating abortion restrictions before viability, did not announce a rule regarding the level of scrutiny to apply in First Amendment abortion-related disclosure cases. [U.S. Const. Amend. 1](#). [National Institute of Family and Life Advocates v. Harris](#), 839 F.3d 823 (9th Cir. 2016).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 U.S.—[Smith v. O'Grady](#), 312 U.S. 329, 61 S. Ct. 572, 85 L. Ed. 859 (1941).  
Okla.—[Flores v. State](#), 1999 OK CR 52, 994 P.2d 782 (Okla. Crim. App. 1999).
- 2 La.—[Baker v. Maclay Properties Co.](#), 648 So. 2d 888 (La. 1995).
- 3 U.S.—[Kennedy v. Mendoza-Martinez](#), 372 U.S. 144, 83 S. Ct. 554, 9 L. Ed. 2d 644 (1963).
- 4 U.S. Const. Art. VI, cl. 2.
- 5 U.S.—[Testa v. Katt](#), 330 U.S. 386, 67 S. Ct. 810, 91 L. Ed. 967, 172 A.L.R. 225 (1947).  
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- 6 Okla.—[Flores v. State](#), 1999 OK CR 52, 994 P.2d 782 (Okla. Crim. App. 1999).  
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- 7 U.S.—[Shelby County, Ala. v. Holder](#), 133 S. Ct. 2612, 186 L. Ed. 2d 651 (2013).

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## 16 C.J.S. Constitutional Law § 10

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##### B. Nature and Authority of Constitutions

#### 2. Particular Constitutions

##### a. Federal Constitution

## § 10. United States Constitution; effect on state law and enforcement

[Topic Summary](#) | [References](#) | [Correlation Table](#)

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West's Key Number Digest, [Constitutional Law](#)  500, 502

**The United States Constitution is binding on, and enforceable by, both federal and state officials. It is the dominant authority in the interpretation and enforcement of provisions of a state constitution which may be affected by federal organic provisions.**

The United States Constitution is a compact established by the people of the United States and not by the states in their sovereign capacity.<sup>1</sup>

In protecting the rights of the people, the Federal Constitution is binding on states and establishes a minimum standard.<sup>2</sup> Thus, judges, legislators, and executives, both federal and state, are bound by oath to enforce the Federal Constitution.<sup>3</sup> The obligation to guard and enforce every right secured by the Federal Constitution rests, therefore, on state courts equally with federal courts.<sup>4</sup>

Within their proper sphere of operation, the provisions of the Federal Constitution are the dominant authority in the interpretation and enforcement of provisions of a state constitution, which may be affected by federal organic provisions.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

If it becomes apparent that the Supreme Court's Commerce Clause decisions prohibit the States from exercising their lawful sovereign powers in the federal system, the Court should be vigilant in correcting the error. [U.S.C.A. Const. Art. 1, § 8, cl. 3. \*South Dakota v. Wayfair, Inc.\*, 138 S. Ct. 2080 \(2018\).](#)

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### Footnotes

- 1 Me.—[In re Opinion of the Justices](#), 118 Me. 544, 107 A. 673, 5 A.L.R. 1412 (1919).
- 2 Ga.—[Pope v. City of Atlanta](#), 240 Ga. 177, 240 S.E.2d 241 (1977).
- 3 U.S.—[Ex parte White](#), 66 F. Supp. 982 (Terr. Haw. 1944).  
As to the oath of judges to support the Federal Constitution, generally, see [C.J.S., Judges § 48](#).  
As to the oath of state officers, generally, see [C.J.S., States § 149](#).  
As to the oath of members of Congress, generally, see [C.J.S., United States § 16](#).
- 4 U.S.—[Smith v. O'Grady](#), 312 U.S. 329, 61 S. Ct. 572, 85 L. Ed. 859 (1941).  
Ind.—[Dixon v. State](#), 224 Ind. 327, 67 N.E.2d 138 (1946).  
**Binding on state court**  
Ga.—[Britt v. Smith](#), 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, [Lejeune v. McLaughlin](#), 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 5 Fla.—[Gray v. Winthrop](#), 115 Fla. 721, 156 So. 270, 94 A.L.R. 804 (1934).

## 16 C.J.S. Constitutional Law § 11

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#### I. Definitions; Nature and Authority of Constitutions

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#### 2. Particular Constitutions

##### b. State Constitutions

## § 11. State constitutions, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

**A state constitution is the supreme law within the ambit of its authority subject only to limitations imposed by the Federal Constitution.**

A state constitution is a document of independent force<sup>1</sup> which represents the fundamental expression of the people regarding the limits on governmental power<sup>2</sup> and the framework of their state government.<sup>3</sup> It is, above all, the embodiment of the will of the people, and the state supreme court's responsibility as final expositor is to ascertain and enforce that mandate.<sup>4</sup>

Because it emanates directly from the people,<sup>5</sup> a state's constitution is a superior, paramount law<sup>6</sup> and the supreme law of the state.<sup>7</sup>

Hence, the constitution of a state, like that of the nation, is the supreme law within the realm and sphere of its authority.<sup>8</sup> Identical state and federal constitutional provisions are each enforceable in its own respected sphere where those principles attach,<sup>9</sup> and where the provisions of a state constitution are not affected by the Federal Constitution, they are the supreme law.<sup>10</sup>

Nevertheless, a state constitution is subject to applicable restraints resulting from the Federal Constitution.<sup>11</sup>

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#### Footnotes

- 1 Cal.—*People v. Rivera*, 127 Cal. App. 3d 136, 179 Cal. Rptr. 384 (4th Dist. 1981).
  - 2 Or.—*State v. Rodriguez*, 347 Or. 46, 217 P.3d 659 (2009).
  - 3 Neb.—*State ex rel. Lemon v. Gale*, 272 Neb. 295, 721 N.W.2d 347 (2006).
  - 4 N.J.—*State v. Buckner*, 437 N.J. Super. 8, 96 A.3d 261 (App. Div. 2014), appeal pending (Oct. 30, 2014).
  - 5 Kan.—*In re Lietz Const. Co.*, 273 Kan. 890, 47 P.3d 1275 (2002).
  - 6 Kan.—*Gannon v. State*, 298 Kan. 1107, 319 P.3d 1196, 302 Ed. Law Rep. 377 (2014).
  - 7 Ga.—*Sherman v. Atlanta Independent School System*, 293 Ga. 268, 744 S.E.2d 26, 294 Ed. Law Rep. 368 (2013).
  - La.—*Louisiana Federation of Teachers v. State*, 201 L.R.R.M. (BNA) 3694, 2014 WL 5287248 (La. 2014).
  - Nev.—*Thomas v. Nevada Yellow Cab Corp.*, 327 P.3d 518, 130 Nev. Adv. Op. No. 52 (Nev. 2014).
  - 8 N.H.—*Burling v. Chandler*, 148 N.H. 143, 804 A.2d 471 (2002).
  - 9 Mont.—*Madison v. Yunker*, 180 Mont. 54, 589 P.2d 126 (1978).
  - 10 Fla.—*Gray v. Winthrop*, 115 Fla. 721, 156 So. 270, 94 A.L.R. 804 (1934).
  - 11 Me.—*LaFleur ex rel. Anderson v. Frost*, 146 Me. 270, 80 A.2d 407 (1951).
- As to the restraints on a state constitution by the Federal Constitution, generally, see § 10.

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## 16 C.J.S. Constitutional Law § 12

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### Constitutional Law

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##### B. Nature and Authority of Constitutions

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##### b. State Constitutions

## § 12. State constitutions as limitations on state governments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

**A state constitution is a limitation on the power of the state government and the people themselves. Its provisions are exclusive and final, and it may not be abrogated except through constitutional amendment.**

The constitution of a state is a limitation on the power of the legislature, binding on the several departments of state government,<sup>1</sup> all its officers and agencies,<sup>2</sup> the state's supreme court,<sup>3</sup> and the people themselves.<sup>4</sup>

Accordingly, among the various interests that a state government seeks to protect and promote, interests represented by the state constitution are paramount to legislative ones.<sup>5</sup> When a constitution contains a definite provision covering a particular subject, that provision is exclusive and final and must be accepted unequivocally.<sup>6</sup>

To recognize an expansive legislative power to redefine terms in a state constitution is inconsistent with a state's constitution's supremacy over statutes.<sup>7</sup> Indeed, a principle of questionable constitutionality should not be extended beyond its present application or limitation especially if such extension would violate either the letter or the spirit of the state constitution.<sup>8</sup>

Constitutional provisions may not, therefore, be abrogated<sup>9</sup> or restricted<sup>10</sup> by the legislature, in any way, other than by changing the constitution itself.<sup>11</sup> Because the state constitution controls over any conflicting statutory provisions,<sup>12</sup> any state laws that run contrary to a state's constitutionally protected rights of individuals cannot be allowed to stand.<sup>13</sup>

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#### Footnotes

- 1 Miss.—[Newell v. State](#), 308 So. 2d 71 (Miss. 1975).
- 2 W. Va.—[State ex rel. West Virginia Citizen Action Group v. Tomblin](#), 227 W. Va. 687, 715 S.E.2d 36 (2011).
- 3 Ga.—[Britt v. Smith](#), 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, [Lejeune v. McLaughlin](#), 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 4 Miss.—[Newell v. State](#), 308 So. 2d 71 (Miss. 1975).
- 5 Or.—[State v. Stoneman](#), 323 Or. 536, 920 P.2d 535 (1996).
- 6 Mass.—[In re Opinion of the Justices](#), 271 Mass. 575, 171 N.E. 237 (1930).
- 7 Mich.—[WPW Acquisition Co. v. City of Troy](#), 466 Mich. 117, 643 N.W.2d 564 (2002).
- 8 Pa.—[Miller v. City of Beaver Falls](#), 368 Pa. 189, 82 A.2d 34 (1951).
- 9 R.I.—[Bailey v. Baronian](#), 120 R.I. 389, 394 A.2d 1338 (1978).
- 10 Wash.—[Belas v. Kiga](#), 135 Wash. 2d 913, 959 P.2d 1037 (1998).
- 11 R.I.—[Bailey v. Baronian](#), 120 R.I. 389, 394 A.2d 1338 (1978).  
As to amendment and revision of state constitutions, generally, see §§ 26 et seq.
- 12 Nev.—[Thomas v. Nevada Yellow Cab Corp.](#), 327 P.3d 518, 130 Nev. Adv. Op. No. 52 (Nev. 2014).
- 13 La.—[Louisiana Federation of Teachers v. State](#), 201 L.R.R.M. (BNA) 3694, 2014 WL 5287248 (La. 2014).

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## 16 C.J.S. Constitutional Law § 13

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##### b. State Constitutions

## § 13. State constitutions as giving broader protections than Federal Constitution

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 502, 617

**A state constitution may provide citizens with additional protections above and beyond those given by the Federal Constitution.**

While the United States Constitution sets a minimum standard for the protection of a right against interference, a state is free to be more restrictive of such interference pursuant to its own constitution.<sup>1</sup>

It has been stated that the Federal Constitution sets the floor for individual rights while a state constitution establishes the ceiling.<sup>2</sup> The relationship between the state and federal constitutions has also been described as both state and federal constitutional protections serving as a floor in setting the minimum level of protections that must be afforded to citizens.<sup>3</sup> In either event, the states are free to provide citizens with additional protections above and beyond the constitutional floor without contravening the Federal Constitution or its intent.<sup>4</sup>

***Power of state supreme court.***

A state supreme court, as the ultimate judicial tribunal with final, unreviewable authority to interpret and enforce the state constitution, is free to give broader protection than that given by the Federal Constitution.<sup>5</sup>

**CUMULATIVE SUPPLEMENT**

**Cases:**

The federal Constitution establishes certain minimum levels which are equally applicable to the analogous state constitutional provision, and each state has the power to provide broader standards, and go beyond the minimum floor which is established by the federal Constitution. [Commonwealth v. Arter, 151 A.3d 149 \(Pa. 2016\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Ga.—[Pope v. City of Atlanta, 240 Ga. 177, 240 S.E.2d 241 \(1977\)](#).
- 2 S.C.—[State v. Drayton, 411 S.C. 533, 769 S.E.2d 254 \(Ct. App. 2015\)](#).
- 3 Ky.—[Sevier v. Com., 434 S.W.3d 443 \(Ky. 2014\)](#).
- 4 Ky.—[Sevier v. Com., 434 S.W.3d 443 \(Ky. 2014\)](#).
- 5 Haw.—[State v. Walton, 133 Haw. 66, 324 P.3d 876 \(2014\)](#).

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### Footnotes

- 1 Me.—[In re Opinion of the Justices](#), 118 Me. 544, 107 A. 673, 5 A.L.R. 1412 (1919).
- 2 Ga.—[Pope v. City of Atlanta](#), 240 Ga. 177, 240 S.E.2d 241 (1977).
- 3 U.S.—[Ex parte White](#), 66 F. Supp. 982 (Terr. Haw. 1944).  
As to the oath of judges to support the Federal Constitution, generally, see [C.J.S., Judges § 48](#).  
As to the oath of state officers, generally, see [C.J.S., States § 149](#).  
As to the oath of members of Congress, generally, see [C.J.S., United States § 16](#).
- 4 U.S.—[Smith v. O'Grady](#), 312 U.S. 329, 61 S. Ct. 572, 85 L. Ed. 859 (1941).  
Ind.—[Dixon v. State](#), 224 Ind. 327, 67 N.E.2d 138 (1946).  
**Binding on state court**  
Ga.—[Britt v. Smith](#), 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, [Lejeune v. McLaughlin](#), 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 5 Fla.—[Gray v. Winthrop](#), 115 Fla. 721, 156 So. 270, 94 A.L.R. 804 (1934).

## 16 C.J.S. Constitutional Law § 11

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### Constitutional Law

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; John Bourdeau, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Michael N. Giuliano, J.D.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D., of the staff of the National Legal Research Group, Inc.; Jill Gustafson, J.D.; Glenda K. Harnad, J.D.; Alan J. Jacobs, J.D.; John Kimpflen, J.D.; Amy L. Kruse, J.D.; Stephen Lease, J.D.; Sonja Larsen, J.D.; Robert B. McKinney, J.D., of the staff of the National Legal Research Group, Inc.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Thomas Muskus, J.D.; Sally J.T. Necheles, J.D., LL.M.; Karl Oakes, J.D. and Eric C. Surette, J.D.

### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### I. Definitions; Nature and Authority of Constitutions

##### B. Nature and Authority of Constitutions

#### 2. Particular Constitutions

##### b. State Constitutions

## § 11. State constitutions, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

**A state constitution is the supreme law within the ambit of its authority subject only to limitations imposed by the Federal Constitution.**

A state constitution is a document of independent force<sup>1</sup> which represents the fundamental expression of the people regarding the limits on governmental power<sup>2</sup> and the framework of their state government.<sup>3</sup> It is, above all, the embodiment of the will of the people, and the state supreme court's responsibility as final expositor is to ascertain and enforce that mandate.<sup>4</sup>

Because it emanates directly from the people,<sup>5</sup> a state's constitution is a superior, paramount law<sup>6</sup> and the supreme law of the state.<sup>7</sup>

Hence, the constitution of a state, like that of the nation, is the supreme law within the realm and sphere of its authority.<sup>8</sup> Identical state and federal constitutional provisions are each enforceable in its own respected sphere where those principles attach,<sup>9</sup> and where the provisions of a state constitution are not affected by the Federal Constitution, they are the supreme law.<sup>10</sup>

Nevertheless, a state constitution is subject to applicable restraints resulting from the Federal Constitution.<sup>11</sup>

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#### Footnotes

- 1 Cal.—*People v. Rivera*, 127 Cal. App. 3d 136, 179 Cal. Rptr. 384 (4th Dist. 1981).
  - 2 Or.—*State v. Rodriguez*, 347 Or. 46, 217 P.3d 659 (2009).
  - 3 Neb.—*State ex rel. Lemon v. Gale*, 272 Neb. 295, 721 N.W.2d 347 (2006).
  - 4 N.J.—*State v. Buckner*, 437 N.J. Super. 8, 96 A.3d 261 (App. Div. 2014), appeal pending (Oct. 30, 2014).
  - 5 Kan.—*In re Lietz Const. Co.*, 273 Kan. 890, 47 P.3d 1275 (2002).
  - 6 Kan.—*Gannon v. State*, 298 Kan. 1107, 319 P.3d 1196, 302 Ed. Law Rep. 377 (2014).
  - 7 Ga.—*Sherman v. Atlanta Independent School System*, 293 Ga. 268, 744 S.E.2d 26, 294 Ed. Law Rep. 368 (2013).
  - La.—*Louisiana Federation of Teachers v. State*, 201 L.R.R.M. (BNA) 3694, 2014 WL 5287248 (La. 2014).
  - Nev.—*Thomas v. Nevada Yellow Cab Corp.*, 327 P.3d 518, 130 Nev. Adv. Op. No. 52 (Nev. 2014).
  - 8 N.H.—*Burling v. Chandler*, 148 N.H. 143, 804 A.2d 471 (2002).
  - 9 Mont.—*Madison v. Yunker*, 180 Mont. 54, 589 P.2d 126 (1978).
  - 10 Fla.—*Gray v. Winthrop*, 115 Fla. 721, 156 So. 270, 94 A.L.R. 804 (1934).
  - 11 Me.—*LaFleur ex rel. Anderson v. Frost*, 146 Me. 270, 80 A.2d 407 (1951).
- As to the restraints on a state constitution by the Federal Constitution, generally, see § 10.

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## 16 C.J.S. Constitutional Law § 12

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### I. Definitions; Nature and Authority of Constitutions

##### B. Nature and Authority of Constitutions

#### 2. Particular Constitutions

##### b. State Constitutions

## § 12. State constitutions as limitations on state governments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  502

**A state constitution is a limitation on the power of the state government and the people themselves. Its provisions are exclusive and final, and it may not be abrogated except through constitutional amendment.**

The constitution of a state is a limitation on the power of the legislature, binding on the several departments of state government,<sup>1</sup> all its officers and agencies,<sup>2</sup> the state's supreme court,<sup>3</sup> and the people themselves.<sup>4</sup>

Accordingly, among the various interests that a state government seeks to protect and promote, interests represented by the state constitution are paramount to legislative ones.<sup>5</sup> When a constitution contains a definite provision covering a particular subject, that provision is exclusive and final and must be accepted unequivocally.<sup>6</sup>

To recognize an expansive legislative power to redefine terms in a state constitution is inconsistent with a state's constitution's supremacy over statutes.<sup>7</sup> Indeed, a principle of questionable constitutionality should not be extended beyond its present application or limitation especially if such extension would violate either the letter or the spirit of the state constitution.<sup>8</sup>

Constitutional provisions may not, therefore, be abrogated<sup>9</sup> or restricted<sup>10</sup> by the legislature, in any way, other than by changing the constitution itself.<sup>11</sup> Because the state constitution controls over any conflicting statutory provisions,<sup>12</sup> any state laws that run contrary to a state's constitutionally protected rights of individuals cannot be allowed to stand.<sup>13</sup>

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#### Footnotes

- 1 Miss.—[Newell v. State](#), 308 So. 2d 71 (Miss. 1975).
- 2 W. Va.—[State ex rel. West Virginia Citizen Action Group v. Tomblin](#), 227 W. Va. 687, 715 S.E.2d 36 (2011).
- 3 Ga.—[Britt v. Smith](#), 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, [Lejeune v. McLaughlin](#), 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 4 Miss.—[Newell v. State](#), 308 So. 2d 71 (Miss. 1975).
- 5 Or.—[State v. Stoneman](#), 323 Or. 536, 920 P.2d 535 (1996).
- 6 Mass.—[In re Opinion of the Justices](#), 271 Mass. 575, 171 N.E. 237 (1930).
- 7 Mich.—[WPW Acquisition Co. v. City of Troy](#), 466 Mich. 117, 643 N.W.2d 564 (2002).
- 8 Pa.—[Miller v. City of Beaver Falls](#), 368 Pa. 189, 82 A.2d 34 (1951).
- 9 R.I.—[Bailey v. Baronian](#), 120 R.I. 389, 394 A.2d 1338 (1978).
- 10 Wash.—[Belas v. Kiga](#), 135 Wash. 2d 913, 959 P.2d 1037 (1998).
- 11 R.I.—[Bailey v. Baronian](#), 120 R.I. 389, 394 A.2d 1338 (1978).  
As to amendment and revision of state constitutions, generally, see §§ 26 et seq.
- 12 Nev.—[Thomas v. Nevada Yellow Cab Corp.](#), 327 P.3d 518, 130 Nev. Adv. Op. No. 52 (Nev. 2014).
- 13 La.—[Louisiana Federation of Teachers v. State](#), 201 L.R.R.M. (BNA) 3694, 2014 WL 5287248 (La. 2014).

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## 16 C.J.S. Constitutional Law § 13

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### I. Definitions; Nature and Authority of Constitutions

##### B. Nature and Authority of Constitutions

#### 2. Particular Constitutions

##### b. State Constitutions

## § 13. State constitutions as giving broader protections than Federal Constitution

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 502, 617

**A state constitution may provide citizens with additional protections above and beyond those given by the Federal Constitution.**

While the United States Constitution sets a minimum standard for the protection of a right against interference, a state is free to be more restrictive of such interference pursuant to its own constitution.<sup>1</sup>

It has been stated that the Federal Constitution sets the floor for individual rights while a state constitution establishes the ceiling.<sup>2</sup> The relationship between the state and federal constitutions has also been described as both state and federal constitutional protections serving as a floor in setting the minimum level of protections that must be afforded to citizens.<sup>3</sup> In either event, the states are free to provide citizens with additional protections above and beyond the constitutional floor without contravening the Federal Constitution or its intent.<sup>4</sup>

***Power of state supreme court.***

A state supreme court, as the ultimate judicial tribunal with final, unreviewable authority to interpret and enforce the state constitution, is free to give broader protection than that given by the Federal Constitution.<sup>5</sup>

**CUMULATIVE SUPPLEMENT**

**Cases:**

The federal Constitution establishes certain minimum levels which are equally applicable to the analogous state constitutional provision, and each state has the power to provide broader standards, and go beyond the minimum floor which is established by the federal Constitution. [Commonwealth v. Arter, 151 A.3d 149 \(Pa. 2016\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Ga.—[Pope v. City of Atlanta, 240 Ga. 177, 240 S.E.2d 241 \(1977\)](#).
- 2 S.C.—[State v. Drayton, 411 S.C. 533, 769 S.E.2d 254 \(Ct. App. 2015\)](#).
- 3 Ky.—[Sevier v. Com., 434 S.W.3d 443 \(Ky. 2014\)](#).
- 4 Ky.—[Sevier v. Com., 434 S.W.3d 443 \(Ky. 2014\)](#).
- 5 Haw.—[State v. Walton, 133 Haw. 66, 324 P.3d 876 \(2014\)](#).

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision


[Topic Summary](#) | [Correlation Table](#)

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### A.L.R. Library

A.L.R. Index, Amendments

A.L.R. Index, Constitutional Law

West's A.L.R. Digest, [Constitutional Law](#)  [520](#) to [522](#), [525](#) to [527](#), [530](#) to [532](#), [535](#), [536](#), [540](#), [541](#), [544](#), [545](#), [547](#), [550](#), [551](#), [553](#), [555](#), [556](#), [558](#), [562](#), [566](#), [567](#), [570](#) to [574](#)

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## 16 C.J.S. Constitutional Law § 19

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 1. Amendment of Federal Constitution

##### a. In General

## § 19. Manner of amendment of Federal Constitution

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  520, 521

**The Constitution of the United States expressly provides the manner in which it may be amended, and amendments must be made in such manner.**

The Constitution of the United States expressly provides the manner in which it may be amended,<sup>1</sup> and amendments to the Constitution may be made only in such manner.<sup>2</sup> The means for amending the Federal Constitution are thus exclusive and cannot be modified by state law.<sup>3</sup> Nor can the people of any one of the several states impose any limitations on the amending power established by the Federal Constitution,<sup>4</sup> and attempts at limitation are invalid.<sup>5</sup>

### *Amendments effectively legislation.*

The fact that an amendment is, in effect, legislation controlling the conduct of private individuals, in that it ordains a final permanent law prohibiting certain acts, not alterable at the will of a majority, does not render the amendment invalid.<sup>6</sup>

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Footnotes

- 1 U.S. Const. Art. V.
- 2 Ohio—*Switzer v. State*, 103 Ohio St. 306, 133 N.E. 552 (1921).  
**Legislative amendment prohibited**  
U.S.—*Myers v. U.S.*, 272 U.S. 52, 47 S. Ct. 21, 71 L. Ed. 160 (1926).
- 3 Cal.—*Bramberg v. Jones*, 20 Cal. 4th 1045, 86 Cal. Rptr. 2d 319, 978 P.2d 1240 (1999).
- 4 Md.—*Leser v. Garnett*, 139 Md. 46, 114 A. 840 (1921), *aff'd*, 258 U.S. 130, 42 S. Ct. 217, 66 L. Ed. 505 (1922).
- 5 U.S.—*Dyer v. Blair*, 390 F. Supp. 1291 (N.D. Ill. 1975).
- 6 U.S.—*Christian Feigenspan, Inc., v. Bodine*, 264 F. 186 (D.N.J. 1920), *aff'd*, 253 U.S. 350, 40 S. Ct. 486, 64 L. Ed. 946, 64 L. Ed. 947 (1920).

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## 16 C.J.S. Constitutional Law § 20

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 1. Amendment of Federal Constitution

##### a. In General

## § 20. Proposal of amendments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  520, 521

**The method of proposing amendments to the Federal Constitution is governed solely by that instrument.**

In accordance with the provisions governing the manner in which the U.S. Constitution may be amended, amendments may be proposed by a vote of two thirds of both houses of Congress or by a convention called on application of the legislatures of two thirds of the states.<sup>1</sup> The application for a constitutional convention must come from state legislatures, acting freely, without restriction or limitation.<sup>2</sup>

Although some form of advisory or nonbinding citizen participation in the constitutional amendment process is permissible, citizens are prohibited from directing or coercing their elective representatives into exercising their powers to amend the Federal Constitution as such direction undermines representative government.<sup>3</sup> The application for a constitutional convention must not come from the people through the exercise of their initiative power.<sup>4</sup> It is not within the power of electors to propose amendments to the Federal Constitutional,<sup>5</sup> nor may the voters thwart or mandate operation of the amendment process.<sup>6</sup>

A state may not, through restrictions imposed by state law, interfere with a state legislature's ability to fulfill its function and responsibilities with respect to the process for amending the Federal Constitution.<sup>7</sup> State courts also cannot amend the Federal Constitution by incorporating the rules promulgated by such courts so as to elevate those provisions to the status of rights which are guaranteed by the Constitution.<sup>8</sup>

***No executive action necessary.***

The proposal of amendments by Congress is independent of executive action, and joint resolutions for that purpose need not be presented to the President for his or her approval.<sup>9</sup>

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Footnotes

- 1 U.S. Const. Art. V.
- 2 Okla.—*In re Initiative Petition No. 364*, 1996 OK 129, 930 P.2d 186 (Okla. 1996).
- 3 Colo.—*Morrissey v. State*, 951 P.2d 911 (Colo. 1998).
- 4 Okla.—*In re Initiative Petition No. 364*, 1996 OK 129, 930 P.2d 186 (Okla. 1996).  
As to amendment of state constitutions by initiative, generally, see §§ 34 to 42.
- 5 Me.—*Opinion of the Justices*, 673 A.2d 693 (Me. 1996).
- 6 Cal.—*Bramberg v. Jones*, 20 Cal. 4th 1045, 86 Cal. Rptr. 2d 319, 978 P.2d 1240 (1999).
- 7 Cal.—*Bramberg v. Jones*, 20 Cal. 4th 1045, 86 Cal. Rptr. 2d 319, 978 P.2d 1240 (1999).
- 8 Ga.—*Britt v. Smith*, 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, *Lejeune v. McLaughlin*, 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 9 U.S.—*Consumer Energy Council of America v. Federal Energy Regulatory Commission*, 673 F.2d 425 (D.C. Cir. 1982), judgment *aff'd*, 463 U.S. 1216, 103 S. Ct. 3556, 77 L. Ed. 2d 1402, 77 L. Ed. 2d 1403, 77 L. Ed. 2d 1413 (1983).

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## 16 C.J.S. Constitutional Law § 21

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#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 1. Amendment of Federal Constitution

##### a. In General

## § 21. Proclamation of adoption

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  520, 521

**Congressional legislation has placed with the Archivist of the United States the duty of issuing a proclamation declaring an amendment to be a part of the Federal Constitution.**

Whenever official notice is received at the National Archives and Records Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Archivist of the United States must forthwith cause the amendment to be published with his or her certificate specifying the states by which the same may have been adopted and that the amendment has become valid, to all intents and purposes, as a part of the Constitution of the United States.<sup>1</sup>

The Archivist has no discretion to determine the truth of the facts stated in the notice from the states but, rather, with respect to such proclamation, merely acts ministerially.<sup>2</sup> The proclamation is also conclusive on the courts so that the validity of the ratifications cannot be questioned in the courts.<sup>3</sup>

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Footnotes

- 1 [1 U.S.C.A. § 106b.](#)
- 2 [U.S.—Leser v. Garnett, 258 U.S. 130, 42 S. Ct. 217, 66 L. Ed. 505 \(1922\).](#)
- 3 [U.S.—Leser v. Garnett, 258 U.S. 130, 42 S. Ct. 217, 66 L. Ed. 505 \(1922\); U.S. v. Stahl, 792 F.2d 1438 \(9th Cir. 1986\).](#)

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## 16 C.J.S. Constitutional Law § 22

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 1. Amendment of Federal Constitution

##### b. Ratification or Rejection of Amendments

## § 22. Congressional power to determine method

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  521, 522

**The method of ratifying amendments to the Federal Constitution is governed solely by that instrument.**

The Constitution's Amendments Article<sup>1</sup> governs the method of ratifying amendments to such Constitution.<sup>2</sup>

Whether proposed by Congress or by a convention, an amendment does not become a part of the Federal Constitution unless it is ratified by the legislatures of or by conventions in three fourths of the several states as the one or the other mode of ratification may be proposed by the Congress.<sup>3</sup> Inasmuch as the particular method of ratifying amendments is determinable by Congress and is limited to the method specified,<sup>4</sup> when Congress has selected the method to be used, all other modes of ratification are excluded.<sup>5</sup>

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Footnotes

- 1 U.S. Const. Art. V.
- 2 Me.—*In re Opinion of the Justices*, 118 Me. 544, 107 A. 673, 5 A.L.R. 1412 (1919).
- 3 N.D.—*State ex rel. Askew v. Meier*, 231 N.W.2d 821 (N.D. 1975).  
As to amendment by Congressional proposal or on application of state legislatures, generally, see § 20.
- 4 U.S.—*United States v. Sprague*, 282 U.S. 716, 51 S. Ct. 220, 75 L. Ed. 640, 71 A.L.R. 1381 (1931).
- 5 N.D.—*State ex rel. Askew v. Meier*, 231 N.W.2d 821 (N.D. 1975).

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## 16 C.J.S. Constitutional Law § 23

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 1. Amendment of Federal Constitution

##### b. Ratification or Rejection of Amendments

## § 23. Authority over amendment process other than that of Congress

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  522

**While Congress alone can choose the method of amendment of the Federal Constitution, the states have certain powers over the method chosen.**

It is not within the power of courts or legislative bodies to alter the method of amendment of the Constitution of the United States proposed by Congress or to prescribe a different method.<sup>1</sup> Nor can the people of any one of the several states take away or limit the rights of legislatures or conventions to ratify a proposed amendment under the method prescribed by the Congress.<sup>2</sup> The power to ratify a proposed amendment to the Federal Constitution has its source only in such Constitution.<sup>3</sup> Nevertheless, the question of whether a state legislature or convention may specify that ratification of an amendment must be by some vote greater than a bare majority is not a political question outside the realm of judicial decision, and that question has been judicially answered in the positive.<sup>4</sup>

When an amendment is proposed for ratification by means of conventions, the direction of Congress necessarily implies to the states the authority to provide for the assembling of such conventions, and any state act providing for the assembling of such a convention is not an act of the legislative assembly within applicable state referendum provisions.<sup>5</sup> The method of calling a state convention to ratify or reject an amendment to the Federal Constitution must, however, comply with the laws of the state relative to such method.<sup>6</sup>

***State referendum.***

The question of ratification or rejection of an amendment to the Federal Constitution cannot be determined by state referendum.<sup>7</sup> However, a statute which provides for the submission to the voters of a state of an advisory referendum as to whether a specified proposed federal constitutional amendment should be ratified, where it is expressly stated that the result of the referendum places no legal requirement on the legislature or any of its members, is not invalid as a limitation on the legislative power under the Federal Constitution.<sup>8</sup>

***Oversight of delegate election.***

The convention itself has the sole power to act on questions with respect to matters of fraud, irregularity, or illegal practices in the conduct of the election of delegates.<sup>9</sup>

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Footnotes

- 1 U.S.—*Ex parte Dillon*, 262 F. 563 (N.D. Cal. 1920), *aff'd*, 256 U.S. 368, 41 S. Ct. 510, 65 L. Ed. 994 (1921).
- 2 U.S.—*Dyer v. Blair*, 390 F. Supp. 1291 (N.D. Ill. 1975).
- 3 U.S.—*Hawke v. Smith*, 253 U.S. 221, 40 S. Ct. 495, 64 L. Ed. 871, 10 A.L.R. 1504 (1920).  
Mass.—*Opinion of the Justices to the Senate*, 373 Mass. 877, 366 N.E.2d 1226 (1977).
- 4 U.S.—*Dyer v. Blair*, 390 F. Supp. 1291 (N.D. Ill. 1975).
- 5 Mo.—*State ex rel. Tate v. Sevier*, 333 Mo. 662, 62 S.W.2d 895, 87 A.L.R. 1315 (1933).
- 6 Me.—*In re Opinion of the Justices*, 132 Me. 491, 167 A. 176 (1933).
- 7 U.S.—*Hawke v. Smith*, 253 U.S. 221, 40 S. Ct. 495, 64 L. Ed. 871, 10 A.L.R. 1504 (1920).  
N.D.—*State ex rel. Askew v. Meier*, 231 N.W.2d 821 (N.D. 1975).
- 8 U.S.—*Kimble v. Swackhamer*, 439 U.S. 1385, 99 S. Ct. 51, 58 L. Ed. 2d 225 (1978).
- 9 Me.—*In re Opinion of the Justices*, 132 Me. 491, 167 A. 176 (1933).

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## 16 C.J.S. Constitutional Law § 24

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### 1. Amendment of Federal Constitution

##### b. Ratification or Rejection of Amendments

## § 24. Time for ratification

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  521, 522

**The time within which ratification of a proposed amendment to the Federal Constitution must be completed is implied to be a reasonable time unless Congress fixes a time that is itself reasonable.**

Although the regulation as to the method of adopting amendments does not prescribe any limit as to the time within which ratification of a proposed amendment to the Federal Constitution must be completed, it is implied that such ratification must be completed within a reasonable time.<sup>1</sup> Congress has the authority to fix a time within which a proposed amendment must be ratified provided the time fixed is a reasonable one.<sup>2</sup>

***Ratification by one of two legislative houses.***

Where one house of a bicameral legislature adopts a resolution for ratification of a federal constitutional amendment, and there is no action by the other house within the session of the legislature, the resolution is of no effect, and the ratification process must begin anew in a later session.<sup>3</sup>

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Footnotes

- 1 U.S.—*Dillon v. Gloss*, 256 U.S. 368, 41 S. Ct. 510, 65 L. Ed. 994 (1921).
- 2 U.S.—*Coleman v. Miller*, 307 U.S. 433, 59 S. Ct. 972, 83 L. Ed. 1385, 122 A.L.R. 695 (1939).
- 3 U.S.—*Dyer v. Blair*, 390 F. Supp. 1287 (N.D. Ill. 1974).

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## 16 C.J.S. Constitutional Law § 25

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##### 1. Amendment of Federal Constitution

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## § 25. Reconsideration

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  522

**A state rejection of a proposed amendment to the Federal Constitution is not a bar to reconsideration although a resubmission of the amendment by Congress may be necessary.**

A vote of rejection on the part of a state has been determined not to be a bar to a subsequent reconsideration and adoption of a proposed amendment to the United States Constitution.<sup>1</sup>

However, in some jurisdictions, where a proposed amendment is once rejected, a resubmission of the amendment by Congress is necessary for further consideration particularly where the proposed amendment is rejected by more than one fourth of the states.<sup>2</sup>

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### Footnotes

- 1 Md.—*Leser v. Garnett*, 139 Md. 46, 114 A. 840 (1921), *aff'd*, 258 U.S. 130, 42 S. Ct. 217, 66 L. Ed. 505 (1922).  
**Reconsideration after 12 years**  
Kan.—*Coleman v. Miller*, 146 Kan. 390, 71 P.2d 518 (1937), judgment *aff'd*, 307 U.S. 433, 59 S. Ct. 972, 83 L. Ed. 1385, 122 A.L.R. 695 (1939).
- 2 Ky.—*Wise v. Chandler*, 270 Ky. 1, 108 S.W.2d 1024 (1937).

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## 16 C.J.S. Constitutional Law § 26

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##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 26. Power of the people

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

**The people of a state have the exclusive right to alter or amend their constitution, in whole or in part, subject only to the limitations imposed by the Federal Constitution, statutes, and treaties.**

Only the people of a state are vested with the power<sup>1</sup> to alter the form and substance of the social compact<sup>2</sup> by way of amendment of their state constitution.<sup>3</sup>

Such power of amendment is a retained, inherent, inalienable right of the people, above and beyond the state constitution,<sup>4</sup> and the courts must exercise rigid care to preserve such power and right.<sup>5</sup> Indeed, a constitutional provision must never be construed in such manner as to make it possible for the will of the people to be frustrated or denied.<sup>6</sup>

In their capacity as sovereign, the people of a state have the sole power to amend or change any provision of the constitution<sup>7</sup> in whole or in part.<sup>8</sup> The power of the people in this respect is plenary.<sup>9</sup> It may be exercised in any manner they deem fit<sup>10</sup> provided the amendments do not violate the Federal Constitution or conflict with federal statutes or treaties.<sup>11</sup>

***Liberal construction.***

Any self-imposed limitations are liberally construed.<sup>12</sup>

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**Footnotes**

- 1 Miss.—*Pro-Choice Mississippi v. Fordice*, 716 So. 2d 645 (Miss. 1998).
- 2 Wash.—*Fritz v. Gorton*, 83 Wash. 2d 275, 517 P.2d 911 (1974).
- 3 Miss.—*Pro-Choice Mississippi v. Fordice*, 716 So. 2d 645 (Miss. 1998).
- 4 Wash.—*Fritz v. Gorton*, 83 Wash. 2d 275, 517 P.2d 911 (1974).
- 5 Md.—*Board of Sup'rs of Elections for Anne Arundel County v. Attorney General*, 246 Md. 417, 229 A.2d 388 (1967).
- 6 Pa.—*Pennsylvania Prison Soc. v. Com.*, 565 Pa. 526, 776 A.2d 971 (2001).
- 7 As to judicial construction of constitutional and statutory provisions governing the initiative process in order to protect the right of citizen initiatives, generally, see § 42.
- 8 Fla.—*Zingale v. Powell*, 885 So. 2d 277 (Fla. 2004).
- 9 Md.—*Board of Sup'rs of Elections for Anne Arundel County v. Attorney General*, 246 Md. 417, 229 A.2d 388 (1967).
- 10 Tex.—*Byers v. Patterson*, 219 S.W.3d 514 (Tex. App. Tyler 2007).
- 11 La.—*Police Jury of Washington Parish v. All Taxpayers, Property Owners and Citizens of Indus. Dist. No. 1 of Washington Parish*, 278 So. 2d 474 (La. 1973).
- 12 La.—*Police Jury of Washington Parish v. All Taxpayers, Property Owners and Citizens of Indus. Dist. No. 1 of Washington Parish*, 278 So. 2d 474 (La. 1973).

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## 16 C.J.S. Constitutional Law § 27

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##### a. In General

## § 27. Extent of power of amendment

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  541

**The all-inclusive power of the people to amend a state constitution includes the power to suspend or repeal provisions of the constitution.**

The all-inclusive power of the people to amend a state constitution includes the power to suspend a feature of the constitution for a definite period so as to take the feature out of the constitution during a period and put it back in at the end of the period, in one process, when the meaning of the amendment is clear and definite.<sup>1</sup>

The power to amend a constitution also includes the power to repeal a provision of the constitution, and a repealing amendment must be adopted in the same manner as any other amendment.<sup>2</sup>

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Footnotes

1 Ala.—[Downs v. City of Birmingham](#), 240 Ala. 177, 198 So. 231 (1940).

2 Ala.—[Opinion of the Justices](#), 263 Ala. 158, 81 So. 2d 881 (1955).

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## 16 C.J.S. Constitutional Law § 28

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##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 28. Extent of power of amendment—Subject matter of amendments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑541

**There are few limitations on matters which can be the subject of a constitutional amendment.**

There are few limitations on matters which can be the subject of a constitutional amendment.<sup>1</sup> Indeed, it has been stated that there are no restrictions on the subject matter that may be encompassed within amendments proposed by the legislature, although the constitution may require that each proposed amendment be embraced in a separate bill, addressing only a single subject.<sup>2</sup>

However, a state constitution may restrict the subject matter of amendments to structural and procedural subjects regarding the legislature, and thus, an amendment is invalid that involves the eligibility or qualifications of individual legislators.<sup>3</sup>

Also, it has been noted that an amendment to a state constitution may extend to a change in the form of the state's government, which may be in any respect except that the government must continue to be a republican form of government within the federal constitutional provision<sup>4</sup> that the United States must guarantee to every state a republican form of government.<sup>5</sup>

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Footnotes

- 1 Fla.—[Lane v. Chiles](#), 698 So. 2d 260 (Fla. 1997).
- 2 Md.—[Stop Slots MD 2008 v. State Bd. of Elections](#), 424 Md. 163, 34 A.3d 1164 (2012).  
As to the rules assuring amendment singularity, generally, see §§ 61 to 66.
- 3 Ill.—[Clark v. Illinois State Bd. of Elections](#), 2014 IL App (1st) 141937, 384 Ill. Dec. 789, 17 N.E.3d 771 (App. Ct. 1st Dist. 2014).
- 4 U.S. Const. Art. IV, § 4.
- 5 Ala.—[Downs v. City of Birmingham](#), 240 Ala. 177, 198 So. 231 (1940).

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## 16 C.J.S. Constitutional Law § 29

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##### a. In General

## § 29. Mode or method of alteration

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  527, 530

**The mode or method of altering a state constitution prescribed by such instrument must be complied with, though if the constitution is silent, the legislature is authorized to provide an explicit and authentic mode for ascertaining and effectuating the will of the people as to its alteration.**

Depending on constitutional provision, amendment of a state constitution may be implemented by constitutional convention<sup>1</sup> or by the legislature.<sup>2</sup> Additionally, by some state constitutions, the people have delegated general lawmaking authority for the state to the legislature while reserving to themselves the power to propose amendments to the constitution through the right of initiative.<sup>3</sup>

In any event, the procedures instituted for the amendment of constitutions are ordinarily purposely cumbersome in order that the organic law may not readily be remolded to fit situations and sentiments that are relatively transitory and fleeting.<sup>4</sup>

The constitutional authority to implement a constitutional provision does not authorize the legislature, by statute,<sup>5</sup> or the courts, by rule<sup>6</sup> or case law,<sup>7</sup> to contradict or amend the constitution.<sup>8</sup>

Nor can a state constitution be amended by estoppel<sup>9</sup> or by the failure of officials to comply with or enforce such constitution.<sup>10</sup> Accordingly, a state cannot effect a de facto nullification of a constitutional provision that it is powerless to repeal, save by constitutional amendment.<sup>11</sup>

***Legislative authority absent constitutional provision.***

If a state constitution is silent, only the legislature is authorized to provide an explicit and authentic mode for ascertaining and effectuating the will of the people as to its alteration.<sup>12</sup>

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**Footnotes**

- 1 §§ 43 to 47.
- 2 §§ 48 to 51.
- 3 Ariz.—*Cave Creek Unified School Dist. v. Ducey*, 231 Ariz. 342, 295 P.3d 440, 289 Ed. Law Rep. 925 (Ct. App. Div. 1 2013), review granted in part, (May 29, 2013) and aff'd, 233 Ariz. 1, 308 P.3d 1152, 297 Ed. Law Rep. 538 (2013).  
As to citizen initiatives, generally, see §§ 34 to 42.
- 4 Wyo.—*Geringer v. Bebout*, 10 P.3d 514 (Wyo. 2000).
- 5 Md.—*Bienkowski v. Brooks*, 386 Md. 516, 873 A.2d 1122 (2005).  
**Alteration of method of amendment**  
A statute which attempts to alter the constitutional method of amendment is invalid.  
Mich.—*Hamilton v. Deland*, 227 Mich. 111, 198 N.W. 843 (1924).
- 6 Md.—*Bienkowski v. Brooks*, 386 Md. 516, 873 A.2d 1122 (2005).  
Miss.—*McNeal v. State*, 658 So. 2d 1345 (Miss. 1995).
- 7 Miss.—*McNeal v. State*, 658 So. 2d 1345 (Miss. 1995).
- 8 Md.—*Bienkowski v. Brooks*, 386 Md. 516, 873 A.2d 1122 (2005).  
Miss.—*McNeal v. State*, 658 So. 2d 1345 (Miss. 1995).
- 9 Wash.—*State ex rel. Lemon v. Langlie*, 45 Wash. 2d 82, 273 P.2d 464 (1954).
- 10 N.M.—*Zellers v. Huff*, 1951-NMSC-072, 55 N.M. 501, 236 P.2d 949 (1951).
- 11 La.—*Caddo-Shreveport Sales and Use Tax Com'n v. Office of Motor Vehicles Through Dept. of Public Safety and Corrections of State*, 710 So. 2d 776 (La. 1998).
- 12 R.I.—*In re Opinion to the Governor*, 55 R.I. 56, 178 A. 433 (1935).

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## 16 C.J.S. Constitutional Law § 30

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 30. Mode or method of alteration—Mandatory nature of constitutional provisions

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  527

**Provisions of a constitution regulating its own amendment are not merely directory but are also mandatory, and a strict observance of every substantial requirement is essential to the validity of the proposed amendment.**

Inasmuch as the power of the people to change a constitution is plenary,<sup>1</sup> the existence in a state constitution of one mode of exercising the power to alter such instrument is not, in some jurisdictions, deemed to preclude all others.<sup>2</sup>

In other jurisdictions, however, where the constitution of the state prescribes the method by which it may be amended or revised, the constitution may be changed only by the method prescribed.<sup>3</sup> In such jurisdictions, provisions of a constitution regulating its own amendment are not merely directory but are also mandatory, and a strict observance of every substantial requirement is essential to the validity of the proposed amendment.<sup>4</sup> Nothing short of literal compliance with the constitutional mandate is sufficient.<sup>5</sup>

The prescribed procedures for amending a state constitution must be strictly followed, and any deviation from the procedure renders the proposed amendment a nullity.<sup>6</sup> Accordingly, a failure to follow mandatory provisions of a state constitution with respect to constitutional amendments may be fatal to a proposed amendment notwithstanding that it is submitted to, ratified, and approved by the people.<sup>7</sup>

However, the substance, more than the form, must be regarded in considering whether there is compliance with the requirements of constitutional provisions setting up the method of amendment,<sup>8</sup> and substantial compliance with the provisions of the constitution as to amendment is, in some instances, sufficient.<sup>9</sup>

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#### Footnotes

- 1                   § 26.
- 2                   Ky.—[Gatewood v. Matthews](#), 403 S.W.2d 716 (Ky. 1966).
- 3                   Alaska—[Bess v. Ulmer](#), 985 P.2d 979 (Alaska 1999).
- 4                   Pa.—[Pennsylvania Prison Soc. v. Com.](#), 565 Pa. 526, 776 A.2d 971 (2001).
- 5                   Haw.—[Watland v. Lingle](#), 104 Haw. 128, 85 P.3d 1079 (2004), as clarified, (Mar. 19, 2004).
- 6                   Pa.—[Pennsylvania Prison Soc. v. Com.](#), 565 Pa. 526, 776 A.2d 971 (2001).
- 7                   Ala.—[Water Works and Sewer Bd. of City of Prichard v. Board of Water and Sewer Comr's of City of Mobile](#), 141 So. 3d 958 (Ala. 2013).
- 8                   Or.—[League of Oregon Cities v. State](#), 334 Or. 645, 56 P.3d 892 (2002), subsequent determination on other grounds, 336 Or. 593, 87 P.3d 672 (2004) and subsequent determination on other grounds, 338 Or. 57, 107 P.3d 626 (2005), opinion on other grounds after grant of review, 339 Or. 186, 118 P.3d 256 (2005).  
As to the cure of defects by popular vote, generally, see § 76.
- 9                   Idaho—[Keenan v. Price](#), 68 Idaho 423, 195 P.2d 662 (1948).
- La.—[Orleans Parish School Bd. v. City of New Orleans](#), 56 So. 2d 280 (La. Ct. App., Orleans 1952).

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## 16 C.J.S. Constitutional Law § 31

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 31. Form and contents of proposed amendments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

**There must be compliance with provisions of a state constitution regulating the form and contents of amendments.**

An amendment must comply with provisions of a state constitution regulating the form and contents of amendments.<sup>1</sup>

It is essential to the validity of a constitutional amendment that it be certain and definite in its provisions<sup>2</sup> and that it not be too broad and vague.<sup>3</sup> It is not, however, necessary that the proposed constitutional section or article be numbered.<sup>4</sup>

In some jurisdictions, a constitutional amendment cannot be legislative in character in that it must be capable of becoming a permanent part of the law of the state.<sup>5</sup> In other jurisdictions, however, the people, by conferring on the legislative department the exclusive power to legislate, are not deemed to be deprived of the power of doing so by and through the constitution itself either in a new constitution or by means of amendment to the old constitution.<sup>6</sup> In such jurisdictions, legislation may, therefore, at any time, be inserted in the constitution by pursuing methods provided in the constitution for making amendments.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

General election ballot language for three proposed amendments to state constitution was not defective based on its bundling of separate and unrelated proposals to vote on as a group, where amendments originated with Constitution Revision Commission (CRC) rather than by initiative petition, fact that each proposed amendment contained multiple independent measures covering different subjects did not prevent compliance with statute requiring proposal be phrased as yes-or-no question, and there was no First Amendment right to vote for proposals independently of each other. [U.S. Const. Amend. 1](#); [Fla. Stat. Ann. § 101.161\(1\)](#). [Detzner v. Anstead](#), 256 So. 3d 820 (Fla. 2018).

Proposed constitutional amendment that would add a new section creating a new constitutional entity authorized to make grants of public funds to various entities for various purposes did not violate requirement that petitions for constitutional amendments not contain more than a single article, notwithstanding amendment's providing that the new entity's activities would not be subject to constitutional prohibition on public support of any religious creed, church or sectarian purpose. [Boeving v. Kander](#), 496 S.W.3d 498 (Mo. 2016).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Idaho—[Keenan v. Price](#), 68 Idaho 423, 195 P.2d 662 (1948).
- 2 Idaho—[Keenan v. Price](#), 68 Idaho 423, 195 P.2d 662 (1948).
- 3 Haw.—[Kahalekai v. Doi](#), 60 Haw. 324, 590 P.2d 543 (1979).
- 4 Me.—[Marsh v. Bartlett](#), 343 Mo. 526, 121 S.W.2d 737 (1938).
- 5 Mo.—[Buchanan v. Kirkpatrick](#), 615 S.W.2d 6 (Mo. 1981).
- 6 Ala.—[Downs v. City of Birmingham](#), 240 Ala. 177, 198 So. 231 (1940).
- 7 Ala.—[Downs v. City of Birmingham](#), 240 Ala. 177, 198 So. 231 (1940).  
That federal constitutional amendments may be legislative in nature is discussed, generally, in [§ 19](#).

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## 16 C.J.S. Constitutional Law § 32

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 32. Effect of amendment

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

**The provisions of a constitution may be impliedly repealed or abrogated by the adoption of changes in other portions which render such provisions obnoxious or ineffective or by the adoption of a new constitution which is all-inclusive although repeals of constitutional provisions by implication are generally not favored.**

The provisions of a constitution may be impliedly repealed or abrogated by the adoption of changes in other portions which render such provisions obnoxious or ineffective<sup>1</sup> or by the adoption of a new constitution which is all-inclusive.<sup>2</sup> Repeals of constitutional provisions by implication are, however, generally not favored.<sup>3</sup> The provisions of an adopted amendment are not, therefore, invalid or ineffectual because of the existence of provisions of the instrument which are different from the adopted amendment.<sup>4</sup>

### *Defeated amendments.*

A proposed amendment which is defeated leaves the constitution unchanged.<sup>5</sup>

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Footnotes

- 1 Wyo.—[Matter of Johnson](#), 568 P.2d 855 (Wyo. 1977).
- 2 Ga.—[Bibb County v. Garrett](#), 204 Ga. 817, 51 S.E.2d 658 (1949).
- 3 Cal.—[Strauss v. Horton](#), 46 Cal. 4th 364, 93 Cal. Rptr. 3d 591, 207 P.3d 48 (2009), as modified, (June 17, 2009).  
Wyo.—[Matter of Johnson](#), 568 P.2d 855 (Wyo. 1977).  
As to the repeal of provisions of a constitution by implication, generally, see § 121.
- 4 Ga.—[Deason v. DeKalb County](#), 222 Ga. 63, 148 S.E.2d 414 (1966).
- 5 N.Y.—[Stoughton v. Cohen](#), 281 N.Y. 343, 23 N.E.2d 460 (1939).

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## 16 C.J.S. Constitutional Law § 33

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### a. In General

## § 33. Distinction between amendment and revision

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

**Changes to a constitution that are few, simple, and independent are generally considered amendments whereas a sweeping change is a revision.**

Changes to a constitution that are few, simple, and independent are generally considered amendments whereas a sweeping change is a revision.<sup>1</sup> Thus, every proposition which effects a change in a constitution, or adds or takes away from it, is an amendment<sup>2</sup> and remains an amendment until the authority which voted it in votes it out.<sup>3</sup>

A revision, on the other hand, implies a reexamination and restatement of the constitution, or some part of it, in a corrected or improved form.<sup>4</sup>

In determining whether a state constitutional provision is an amendment or a revision that may not be validly enacted by initiative, courts examine both the quantitative and qualitative effects of the measure on the state's constitutional scheme.<sup>5</sup> In

order to constitute a qualitative revision in the state constitution, a constitutional measure must make a far reaching change in the fundamental governmental structure or the foundational power of its branches as set forth in the constitution.<sup>6</sup> The core determination of whether a proposed change to a constitution is an amendment or a revision is whether the changes are so significant as to create a need to consider the constitution as an organic whole.<sup>7</sup>

***Death penalty.***

A state constitutional provision authorizing the death penalty is a constitutional amendment rather than a revision and thus is properly adopted by initiative.<sup>8</sup>

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Footnotes

- 1 Alaska—[Bess v. Ulmer](#), 985 P.2d 979 (Alaska 1999).
- 2 Va.—[Staples v. Gilmer](#), 183 Va. 613, 33 S.E.2d 49, 158 A.L.R. 495 (1945).
- 3 Mont.—[State v. Cooney](#), 70 Mont. 355, 225 P. 1007 (1924) (overruled on other grounds by, [Marshall v. State ex rel. Cooney](#), 1999 MT 33, 293 Mont. 274, 975 P.2d 325 (1999)).
- 4 Del.—[Opinion of the Justices](#), 264 A.2d 342 (Del. 1970).
- 5 Cal.—[Strauss v. Horton](#), 46 Cal. 4th 364, 93 Cal. Rptr. 3d 591, 207 P.3d 48 (2009), as modified, (June 17, 2009).  
That initiative measures may not be used to enact constitutional revisions is discussed, generally, in § 34.
- 6 Cal.—[Strauss v. Horton](#), 46 Cal. 4th 364, 93 Cal. Rptr. 3d 591, 207 P.3d 48 (2009), as modified, (June 17, 2009).
- 7 Alaska—[Bess v. Ulmer](#), 985 P.2d 979 (Alaska 1999).
- 8 Cal.—[Strauss v. Horton](#), 46 Cal. 4th 364, 93 Cal. Rptr. 3d 591, 207 P.3d 48 (2009), as modified, (June 17, 2009).

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## 16 C.J.S. Constitutional Law § 34

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (1) In General

## § 34. Use of citizen initiatives to propose state constitutional amendments

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 540

### Where provided, amendments to a state constitution may be proposed by initiative petitions.

The "initiative power" refers to the authority of the people to propose statutes and constitutional amendments to be submitted to a vote of the electorate and the authority of the electorate to adopt or reject the proposed measure.<sup>1</sup> Once an initiative measure has been approved by the requisite vote of electors in an election, the measure becomes a duly enacted constitutional amendment.<sup>2</sup>

Initiatives may not be used to circumvent constitutionally prescribed methods of amending a state constitution.<sup>3</sup> However, where provided for by the state constitution, amendments to the constitution may be proposed and submitted by the people by initiative petition<sup>4</sup> as long as the subject of the proposed amendment is confined to the limitations set out by the constitution.<sup>5</sup> In such instances, the people's reserved power of initiative is greater than the power of the legislature.<sup>6</sup>

In some jurisdictions, the initiative power applies only to amendments and does not extend to constitutional revision.<sup>7</sup> In determining whether a change proposed by initiative is an amendment or a revision, each situation must be resolved on its own facts.<sup>8</sup>

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Footnotes

- 1 Cal.—*Vandermost v. Bowen*, 53 Cal. 4th 421, 137 Cal. Rptr. 3d 1, 269 P.3d 446 (2012).
- 2 U.S.—*Hollingsworth v. Perry*, 133 S. Ct. 2652, 186 L. Ed. 2d 768 (2013).  
Cal.—*San Francisco Tomorrow v. City and County of San Francisco*, 229 Cal. App. 4th 498, 176 Cal. Rptr. 3d 430 (1st Dist. 2014), as modified, (Sept. 4, 2014) and as modified, (Sept. 5, 2014) and review denied, (Nov. 19, 2014).
- 3 Wash.—*Parents Involved in Community Schools v. Seattle School Dist., No. 1*, 149 Wash. 2d 660, 72 P.3d 151, 178 Ed. Law Rep. 536 (2003).  
As to modes or methods of state constitutional alteration, generally, see §§ 29, 30.
- 4 U.S.—*Felix v. Milliken*, 463 F. Supp. 1360 (E.D. Mich. 1978).
- 5 Mass.—*In re Opinion of the Justices*, 297 Mass. 577, 9 N.E.2d 186 (1937).
- 6 Cal.—*Rossi v. Brown*, 9 Cal. 4th 688, 38 Cal. Rptr. 2d 363, 889 P.2d 557 (1995).
- 7 Cal.—*McFadden v. Jordan*, 32 Cal. 2d 330, 196 P.2d 787 (1948).
- 8 Cal.—*McFadden v. Jordan*, 32 Cal. 2d 330, 196 P.2d 787 (1948).  
As to the distinction between an amendment and a revision of a constitution, generally, see § 33.

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## 16 C.J.S. Constitutional Law § 35

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (1) In General

## § 35. Compliance with constitutional and statutory provisions

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 540

**In jurisdictions where amendments to a state constitution may be proposed by initiative petition, such petitions must comply with relevant constitutional and statutory provisions.**

When amendments to a state constitution are permitted to be instituted by an initiative petition, there must be compliance, in such regard, with all constitutional and valid statutory requirements.<sup>1</sup> Such statutory requirements may exist when a constitutional provision authorizes a state legislature to enact laws to facilitate the operation of the initiative power, including the enactment of reasonable legislation to prevent fraud or to render intelligible the purpose of the proposed constitutional amendment.<sup>2</sup> Any legislation and administrative rules affecting the citizen initiative process for constitutional amendments must be either neutral, nondiscriminatory regulations of petition-circulation and voting procedure, which are explicitly or implicitly contemplated under the state constitution, or, if otherwise, be necessary for ballot integrity.<sup>3</sup>

Compliance must be had with requirements as to the time of circulation of the petition and the presentation and filing of the petition with the correct administrative officer.<sup>4</sup> Only legal voters, within constitutional and statutory requirements, are qualified to sign the initiative petition.<sup>5</sup> There must also be proper publication of the requisite provisions prior to submission<sup>6</sup> as where a proposal will alter or abrogate any existing provision of the constitution.<sup>7</sup>

***Degree of constitutional compliance.***

The degree of constitutional compliance required of initiative petitions is somewhat more exacting in instances in which an attack is made prior to adoption, particularly as to procedural matters.<sup>8</sup>

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Footnotes

- 1 Ark.—[Bradley v. Hall](#), 220 Ark. 925, 251 S.W.2d 470 (1952).  
That constitutional and statutory provisions are construed in such a manner so as to protect the right of initiative is discussed, generally, in § 42.
- 2 Neb.—[State ex rel. Stenberg v. Moore](#), 258 Neb. 199, 602 N.W.2d 465 (1999).  
As to submission of proposed amendments to the electorate, generally, see §§ 52 et seq.
- 3 Fla.—[Browning v. Florida Hometown Democracy, Inc., PAC](#), 29 So. 3d 1053 (Fla. 2010).
- 4 Cal.—[Gage v. Jordan](#), 23 Cal. 2d 794, 147 P.2d 387 (1944).  
As to the administrative sufficiency review of a proposed initiative, generally, see § 36.
- 5 Mo.—[Scott v. Kirkpatrick](#), 513 S.W.2d 442 (Mo. 1974).  
As to initiative signatures, generally, see §§ 38, 39.
- 6 Colo.—[Yenter v. Baker](#), 126 Colo. 232, 248 P.2d 311 (1952).
- 7 Mich.—[Carman v. Hare](#) (State Report Title: [Carman v. Secretary of State](#)), 384 Mich. 443, 185 N.W.2d 1 (1971).
- 8 Mo.—[State ex rel. Scott v. Kirkpatrick](#), 484 S.W.2d 161 (Mo. 1972).  
As to judicial review of constitutional amendments prior to adoption, generally, see §§ 67 to 72.  
As to judicial review of constitutional amendments post adoption, generally, see § 76.

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## 16 C.J.S. Constitutional Law § 36

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (1) In General

## § 36. Administrative sufficiency review

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  544, 545

**In jurisdictions where amendments to a state constitution may be proposed by initiative petitions, an administrative officer, such as the secretary of state, reviews the initiative petition for sufficiency**

In jurisdictions where amendments to a state constitution may be proposed by initiative petitions, an administrative officer, such as the secretary of state, reviews initiative petitions for sufficiency.<sup>1</sup> The officer generally has the duty to pass upon the initiative petition and proceed with it as required by statute.<sup>2</sup> To pass upon each initiative petition means to sit in adjudication, to exercise judgment upon, to determine sufficiency in accordance with the standard set, and to weigh and determine the essential facts for and against.<sup>3</sup>

Absent a constitutional or statutory provision to the contrary, there is no authority which would require the secretary of state to reject an initiative petition for an amendment to the state constitution because the language is allegedly ambiguous.<sup>4</sup>

***Violations of Federal Constitution.***

The administrative officer cannot refuse to submit a proposed amendment to the electorate on the ground that it violates the Federal Constitution.<sup>5</sup>

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**Footnotes**

- 1 Ohio—[State ex rel. Scioto Downs, Inc. v. Brunner](#), 123 Ohio St. 3d 24, 2009-Ohio-3761, 913 N.E.2d 967 (2009).
- 2 Colo.—[McClellan v. Meyer](#), 900 P.2d 24 (Colo. 1995).
- 3 N.D.—[Larkin v. Gronna](#), 69 N.D. 234, 285 N.W. 59 (1939).
- 4 Ohio—[State ex rel. Williams v. Brown](#), 52 Ohio St. 2d 13, 6 Ohio Op. 3d 79, 368 N.E.2d 838 (1977).
- 5 Mich.—[Hamilton v. Vaughan](#), 212 Mich. 31, 179 N.W. 553 (1920).

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## 16 C.J.S. Constitutional Law § 37

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (2) Form and Content of Petition

## § 37. Statutory requirements as to form and contents of petition to amend state constitution

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  544, 545

**Constitutional and valid statutory requirements as to the form and contents of a petition to amend a state constitution must typically be substantially complied with.**

Depending on the jurisdiction, constitutional and valid statutory requirements as to the form and contents of a petition to amend a state constitution must be<sup>1</sup> substantially<sup>2</sup> complied with.<sup>3</sup>

A petition may be required to include the full text of the proposed amendment.<sup>4</sup> It may also be required to disclose cognate constitutional provisions which are in direct conflict with the proposed amendment.<sup>5</sup> There must be compliance with requirements as to the title on the petition.<sup>6</sup> Further, a constitutional provision may require that a petition contain an enacting clause, which requirement is mandatory and not directory.<sup>7</sup>

In some jurisdictions, insufficient petitions lapse and are without further authority.<sup>8</sup> In other jurisdictions, pursuant to applicable provisions, an initiative petition which is deficient may be corrected or amended, but the correction or amendment permitted must go to form and error rather than to complete failure.<sup>9</sup>

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Footnotes

- 1 Ohio—*State ex rel. Schwartz v. Brown*, 32 Ohio St. 2d 4, 61 Ohio Op. 2d 151, 288 N.E.2d 821 (1972).
- 2 Ariz.—*Save Our Vote, Opposing C-03-2012 v. Bennett*, 231 Ariz. 145, 291 P.3d 342 (2013).
- 3 Ohio—*State ex rel. Schwartz v. Brown*, 32 Ohio St. 2d 4, 61 Ohio Op. 2d 151, 288 N.E.2d 821 (1972).  
As to the single subject requirement, applicable to citizen initiative petitions, generally, see §§ 64 to 66.
- 4 Mo.—*State ex rel. Scott v. Kirkpatrick*, 484 S.W.2d 161 (Mo. 1972).
- 5 Mo.—*Buchanan v. Kirkpatrick*, 615 S.W.2d 6 (Mo. 1981).
- 6 Cal.—*Biffle v. Social Welfare Bd. of Cal.*, 104 Cal. App. 2d 446, 231 P.2d 869 (2d Dist. 1951).  
As to ballot titles, generally, see §§ 58 to 60.
- 7 Mo.—*State ex rel. Scott v. Kirkpatrick*, 484 S.W.2d 161 (Mo. 1972).
- 8 Cal.—*Gage v. Jordan*, 23 Cal. 2d 794, 147 P.2d 387 (1944).  
Mich.—*Hamilton v. Vaughan*, 206 Mich. 371, 172 N.W. 619 (1919).
- 9 Ark.—*Dixon v. Hall*, 210 Ark. 891, 198 S.W.2d 1002 (1946).

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## 16 C.J.S. Constitutional Law § 38

Corpus Juris Secundum | June 2021 Update

### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (2) Form and Content of Petition

## § 38. Signatures

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  547

**In jurisdictions where amendments to a state constitution may be proposed by initiative petitions, relevant constitutional and statutory provisions as to signatures on the petition must be complied with.**

In jurisdictions where amendments to a state constitution may be proposed by initiative petitions, relevant constitutional and statutory provisions as to signatures on the petition must be complied with.<sup>1</sup> Such provisions include the requirement that signatories be registered voters at the time they sign the petition<sup>2</sup> and that the petition must contain the requisite number of signatures.<sup>3</sup>

It is essential that a petition disclose information that will readily permit the secretary of state or other appropriate officer to examine the petition and determine if the signers are qualified.<sup>4</sup> However, the petition and the proposed amendment embodied

in the petition need not recite that the requisite number of voters have signed.<sup>5</sup> Rather, such matter is for the decision of the appropriate officer when the petition is offered for filing.<sup>6</sup>

***Substantial compliance.***

Statutes governing signature requirements for statewide ballot initiatives require substantial compliance.<sup>7</sup>

**CUMULATIVE SUPPLEMENT**

**Cases:**

On petition challenging sufficiency of the signatures certified by the Secretary of State in statewide initiative ballot petition for term limits, special master did not clearly err in finding 3,088 signatures submitted to the Secretary of State by ballot sponsor should be excluded because it failed to provide a list of paid canvassers to the Secretary of State; while sponsor sent several e-mails to the Secretary of State, the e-mails did not contain any attached canvasser lists, and while one e-mail was sent with an attached list, the attachment was password protected and could not be accessed. [Ark. Code Ann. § 7-9-601\(a\)\(C\)\(i\)](#). [Zook v. Martin, 2018 Ark. 306, 558 S.W.3d 385 \(2018\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 [Colo.—Case v. Morrison, 118 Colo. 517, 197 P.2d 621 \(1948\)](#).
- 2 [Ark.—Roberts v. Priest, 334 Ark. 503, 975 S.W.2d 850 \(1998\)](#).
- 3 [Ark.—Arkansas Hotels and Entertainment, Inc. v. Martin, 2012 Ark. 335, 423 S.W.3d 49 \(2012\)](#).  
**Right of signer to withdraw signature**  
[Okla.—In re Initiative Petition No. 364, 1996 OK 129, 930 P.2d 186 \(Okla. 1996\)](#).  
**A.L.R. Library**  
[Validity, Construction, and Application of State Statutes Regulating or Proscribing Payment in Connection with Gathering Signatures on Nominating Petitions for Public Office or Initiative Petitions, 40 A.L.R.6th 317](#).
- 4 [Colo.—McClellan v. Meyer, 900 P.2d 24 \(Colo. 1995\)](#).
- 5 [Mo.—State v. Burns, 351 Mo. 163, 172 S.W.2d 259 \(1943\)](#).
- 6 [Mo.—State v. Burns, 351 Mo. 163, 172 S.W.2d 259 \(1943\)](#).
- 7 [Nev.—Las Vegas Convention and Visitors Authority v. Miller, 124 Nev. 669, 191 P.3d 1138 \(2008\)](#).

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## 16 C.J.S. Constitutional Law § 39

Corpus Juris Secundum | June 2021 Update

### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions


##### b. Citizen Initiatives

##### (2) Form and Content of Petition

## § 39. Signatures—Verification and forgery

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  547

**In jurisdictions where amendments to a state constitution may be proposed by initiative petitions, signatures on the petition must be verified in compliance with relevant constitutional or statutory requirements. Forged signatures are invalid, and forgery of signatures is a criminal offense.**

A constitution may require that each document comprising a constitutional amendment initiative petition have affixed to it an authenticating affidavit executed by one of the signers of the document and that there be strict adherence to such authentication requirement.<sup>1</sup>

Signatures which are not certified on the final day for filing will not be counted toward the total valid signatures even though they are subsequently certified.<sup>2</sup> Also, where provided, part-petitions may be rejected which are filed but not properly verified.<sup>3</sup>

Forged and fraudulent signatures on petitions distributed as part of the citizen initiative process for a constitutional amendment are invalid and void ab initio.<sup>4</sup> Further, pursuant to statutes prescribing the punishment for signing another's name to an initiative petition, the gist of the offense is the accused's signing a name other than his or her own to such petition, and the technical sufficiency of the petition is immaterial.<sup>5</sup>

***Preservation of process integrity.***

Signature authentication efforts intended to preserve the integrity of the petition process for initiative-generated constitutional amendments should be conducted and supervised by neutral election officials rather than biased advocates.<sup>6</sup>

**CUMULATIVE SUPPLEMENT**

**Cases:**

On petition challenging sufficiency of the signatures certified by the Secretary of State in statewide initiative ballot petition for term limits, special master appointed to address the sufficiency of collected signatures was not required to cross-reference ballot sponsor's list with challenger's petition parts challenging those signatures; while sponsor specifically filed a petition for rehearing, styled as a letter, drawing the special master's attention to deficiencies in his first report, the sponsor did not address any failure on the part of the special master to cross-reference sponsor's list with challenger's petition. [Ark. Code Ann. § 7-9-126](#). [Zook v. Martin, 2018 Ark. 306, 558 S.W.3d 385 \(2018\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Nev.—[Lundberg v. Koontz, 82 Nev. 360, 418 P.2d 808 \(1966\)](#).  
**Effect of false affidavit**  
When an affidavit accompanying an initiative petition is demonstrated to be false, through conscious action as opposed to inadvertence, the petition loses its prima facie validity.  
[Ark.—Roberts v. Priest, 334 Ark. 503, 975 S.W.2d 850 \(1998\)](#).
- 2 Or.—[Kays v. McCall, 244 Or. 361, 418 P.2d 511 \(1966\)](#).
- 3 Ohio—[State ex rel. O'Grady v. Brown, 47 Ohio St. 2d 265, 1 Ohio Op. 3d 378, 354 N.E.2d 690 \(1976\)](#).
- 4 Fla.—[Browning v. Florida Hometown Democracy, Inc., PAC, 29 So. 3d 1053 \(Fla. 2010\)](#).
- 5 Mo.—[State v. Burns, 351 Mo. 163, 172 S.W.2d 259 \(1943\)](#).
- 6 Fla.—[Browning v. Florida Hometown Democracy, Inc., PAC, 29 So. 3d 1053 \(Fla. 2010\)](#).

## 16 C.J.S. Constitutional Law § 40

Corpus Juris Secundum | June 2021 Update

### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (3) Protest and Review

## § 40. Appeal from order adjudicating validity of petition for constitutional amendment

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  570 to 574

**In jurisdictions where a state constitution may be amended by initiative petition, an appeal may be taken from an order adjudicating the validity of the petition.**

Where citizen initiatives are concerned, the state supreme court has no authority to inject itself in the process unless the laws governing the process have been clearly and conclusively violated.<sup>1</sup> Further, when courts are called upon to intervene in the initiative process, they must act with restraint, trepidation, and a healthy suspicion of the partisan who would use the judiciary to prevent the initiative process from taking its course.<sup>2</sup>

The state supreme court's primary duty, when an initiative petition is challenged<sup>3</sup> in accordance with the limitation of time constitutionally prescribed,<sup>4</sup> is to determine whether the constitutional requirements and limits of power, as expressed in the provisions relating to the procedure and form of initiative petitions, have been regarded.<sup>5</sup> It is the court's duty, in reviewing

a proposed citizen initiative amendment to the state constitution, to uphold the proposal unless it can be shown to be clearly and conclusively defective.<sup>6</sup>

On review of an initiative petition, a court cannot concern itself with the merit or lack of merit of the proposed amendment although it must sufficiently examine the initiative to determine whether or not the constitutional prohibition against initiative proposals containing multiple subjects has been violated.<sup>7</sup>

The parties in proceedings before the secretary of state to test the sufficiency of an initiative petition for a constitutional amendment may appeal to the supreme court.<sup>8</sup> Such a proceeding is not actually appellate in character but is a transference of the papers and documents for an original investigation and hearing de novo.<sup>9</sup>

### ***Remand.***

Where the court, on a review de novo, has all of the evidence before it, and the person protesting is awarded full relief, there is no need to remand the proceeding to the administrative official with whom the protest was filed.<sup>10</sup>

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### Footnotes

- 1 Fla.—Advisory Opinion To Attorney General re Independent Nonpartisa Com'n to Apportion Legislative and Congressional Districts Which Replaces Apportionment by Legislature, 926 So. 2d 1218 (Fla. 2006).
- 2 Mo.—Missouri Mun. League v. Carnahan, 364 S.W.3d 548 (Mo. Ct. App. W.D. 2011).
- 3 Mo.—Brown v. Carnahan, 370 S.W.3d 637 (Mo. 2012).
- 4 Ohio—State ex rel. Essig v. Blackwell, 103 Ohio St. 3d 481, 2004-Ohio-5586, 817 N.E.2d 5 (2004).
- 5 Mo.—Brown v. Carnahan, 370 S.W.3d 637 (Mo. 2012).  
As to judicial review of constitutional amendment ballot submissions, generally, see §§ 67 to 72.
- 6 Fla.—In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions, 132 So. 3d 786 (Fla. 2014).
- 7 Colo.—Matter of Title, Ballot Title and Submission Clause, and Summary Pertaining to Casino Gaming Initiative Adopted on April 21, 1982, 649 P.2d 303 (Colo. 1982).  
As to the single subject requirement, generally, see §§ 64 to 66.  
As to judicial review under the single subject rule, generally, see § 72.
- 8 Okla.—In re Initiative Petition No. 158, State Question No. 229, 1940 OK 418, 188 Okla. 111, 106 P.2d 786 (1940).
- 9 Okla.—In re Initiative Petition No. 281, State Question No. 441, 1967 OK 230, 434 P.2d 941 (Okla. 1967).
- 10 Okla.—In re Initiative Petition No. 281, State Question No. 441, 1967 OK 230, 434 P.2d 941 (Okla. 1967).

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## 16 C.J.S. Constitutional Law § 41

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (3) Protest and Review

## § 41. As to form and substance

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  570 to 574

**Procedural challenges to an initiative-driven constitutional amendment can be determined prior to an election; however, constitutional or substantive challenges must generally be made after the election.**

By statute, there may be two stages for challenging an initiative-driven constitutional amendment: (1) preelection, as to form, and (2) postelection, as to substance.<sup>1</sup> Thus, procedural challenges to the legal sufficiency of an initiative petition may be determined prior to an election.<sup>2</sup> However, any claims alleging the unconstitutionality or illegality of the substance of a proposed initiative, or actions to be taken pursuant to the initiative when enacted, are generally premature before its approval by the electorate<sup>3</sup> because an opinion on a law not yet enacted is necessarily advisory.<sup>4</sup>

There are two possible exceptions to the rule that judicial review of the constitutionality of an initiative is unavailable until after it has been enacted by the voters: first, where the initiative is challenged on the basis that it does not comply with the

state's constitutional and statutory provisions regulating initiatives, and second, where the initiative is challenged as clearly unconstitutional or clearly unlawful.<sup>5</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Initiative petition seeking to adopt a constitutional amendment to increase funding for public education through an increase in the gross production tax, which ambiguously described the time at which the tax provision would be effective, would be interpreted, upon protest, in a manner that did not create an improper retroactive tax. [U.S. Const. Amend. 5. Oklahoma Independent Petroleum Association v. Potts, 2018 OK 24, 414 P.3d 351 \(Okla. 2018\)](#), as amended, (Mar. 21, 2018).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Miss.—[Hughes v. Hosemann, 68 So. 3d 1260 \(Miss. 2011\)](#).
- 2 Neb.—[Stewart v. Advanced Gaming Technologies, Inc., 272 Neb. 471, 723 N.W.2d 65 \(2006\)](#).
- 3 Ohio—[State ex rel. Ohio Liberty Council v. Brunner, 125 Ohio St. 3d 315, 2010-Ohio-1845, 928 N.E.2d 410 \(2010\)](#).
- 4 Alaska—[DesJarlais v. State, Office of Lieutenant Governor, 300 P.3d 900 \(Alaska 2013\)](#).
- 5 Alaska—[DesJarlais v. State, Office of Lieutenant Governor, 300 P.3d 900 \(Alaska 2013\)](#).

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## 16 C.J.S. Constitutional Law § 42

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### b. Citizen Initiatives

##### (3) Protest and Review

## § 42. Judicial construction protecting right of initiative

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  540

**State courts construe state constitutional and statutory provisions governing the initiative process liberally and in a manner that facilitates the right of initiative.**

A state supreme court construes constitutional and statutory provisions governing the initiative process in a manner that facilitates the right of initiative instead of hampering it with technical statutory provisions or constructions.<sup>1</sup> Courts are required to construe the right of initiative liberally and may impose on the right only those limitations expressed in the law or clearly and compellingly implied.<sup>2</sup> Indeed, it is the state supreme court's duty to liberally construe the citizens' right of initiative in favor of their exercise of this important right.<sup>3</sup>

When statutes or administrative rules restrict the citizen-initiative process for constitutional amendment by providing substantive requirements that are foreign to the constitution, the court must uphold the self-executing nature of these constitutional provisions and ensure that such regulations are necessary for ballot integrity in the strictest sense of the word.<sup>4</sup>

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Footnotes

- 1 Colo.—[In re Title, Ballot Title and Submission Clause, and Summary for 1999-00 #?256](#), 12 P.3d 246 (Colo. 2000).
- 2 D.C.—[District of Columbia Bd. of Elections and Ethics v. District of Columbia](#), 866 A.2d 788 (D.C. 2005).
- 3 Ohio—[Rothenberg v. Husted](#), 129 Ohio St. 3d 447, 2011-Ohio-4003, 953 N.E.2d 327 (2011).
- 4 Fla.—[Browning v. Florida Hometown Democracy, Inc., PAC](#), 29 So. 3d 1053 (Fla. 2010).

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## 16 C.J.S. Constitutional Law § 43

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### c. Constitutional Conventions

##### (1) In General

## § 43. Calling of state constitutional convention

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  535

**A state legislature has the power to call a constitutional convention where provided for in the state constitution, and it may have such power even though the constitution does not specifically provide for the calling of a convention by the legislature.**

A state legislature has the power to call a constitutional convention where such authority is found in the state constitution<sup>1</sup> even without obtaining the approval of the people for such call.<sup>2</sup> Also, where a state constitution provides that it may be revised by means of a constitutional convention, a revision of the constitution may be accomplished only through ratification by the people of a revised constitution proposed by a convention, at least in the absence of other methods provided by the constitution.<sup>3</sup>

A legislature may also have the power to call a constitutional convention even where the constitution does not specifically provide for the calling of a convention by the legislature.<sup>4</sup> Where no method of amendment is provided by the constitution itself, the legislature may ordinarily submit to the people the question of calling a convention for the purpose of framing amendments.<sup>5</sup>

In the absence of a provision to the contrary, the legislature is not restricted to having the vote to hold a constitutional convention taken at any particular election.<sup>6</sup> Where provided, if the majority of the electors voting at a general election decide in favor of a convention, the proposal must be adopted by a majority of the qualified electors voting at the election and not merely a majority only of those voting on the proposal.<sup>7</sup>

***Time restriction.***

A constitutional provision that no constitutional convention may be held more often than once in six years prevents convening of such a convention less than six years after convening of a prior convention but permits convening of a convention less than six years after the adjournment of a prior convention.<sup>8</sup>

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**Footnotes**

- 1 Tenn.—*Illustration Design Group, Inc. v. McCanless*, 224 Tenn. 284, 454 S.W.2d 115 (1970).
- 2 La.—*Bates v. Edwards*, 294 So. 2d 532 (La. 1974).
- 3 Cal.—*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization*, 22 Cal. 3d 208, 149 Cal. Rptr. 239, 583 P.2d 1281 (1978).
- Del.—*Opinion of the Justices*, 264 A.2d 342 (Del. 1970).
- As to the difference between constitutional amendment and ratification, generally, see § 33.
- 4 Pa.—*Stander v. Kelley*, 433 Pa. 406, 250 A.2d 474 (1969).
- 5 R.I.—*In re Opinion to the Governor*, 55 R.I. 56, 178 A. 433 (1935).
- 6 N.H.—*In re Opinion of the Justices*, 88 N.H. 495, 190 A. 712 (1937).
- 7 Mich.—*People v. Alger*, 323 Mich. 523, 35 N.W.2d 669 (1949).
- 8 Tenn.—*Southern Ry. Co. v. Dunn*, 483 S.W.2d 101 (Tenn. 1972).

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## 16 C.J.S. Constitutional Law § 44

Corpus Juris Secundum | June 2021 Update

### Constitutional Law

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; John Bourdeau, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Michael N. Giuliano, J.D.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D., of the staff of the National Legal Research Group, Inc.; Jill Gustafson, J.D.; Glenda K. Harnad, J.D.; Alan J. Jacobs, J.D.; John Kimpflen, J.D.; Amy L. Kruse, J.D.; Stephen Lease, J.D.; Sonja Larsen, J.D.; Robert B. McKinney, J.D., of the staff of the National Legal Research Group, Inc.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Thomas Muskus, J.D.; Sally J.T. Necheles, J.D., LL.M.; Karl Oakes, J.D. and Eric C. Surette, J.D.

### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### c. Constitutional Conventions

##### (1) In General

## § 44. Delegates

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 536

**A state legislature has, where provided, the power to provide for the election of delegates to a constitutional convention and may prescribe the time and manner of electing them.**

A state legislature has, where provided, the power to provide for the election of delegates to a constitutional convention<sup>1</sup> and to prescribe the time and manner of electing such delegates.<sup>2</sup>

The age, citizenship, and residency qualifications for legislators prescribed by the constitution may also be the qualifications for delegates, and the holding of a lucrative public office is not incompatible with the office of delegate.<sup>3</sup> However, a statutory provision governing qualifications of delegates which, in effect, bars ministers of religion from serving as delegates is a violation of the constitutionally protected right to the free exercise of religion.<sup>4</sup>

A state constitutional provision that members of a constitutional convention be elected "in the same manner" as members of the legislature requires only that election provisions be founded on basic constitutional requirements.<sup>5</sup> The legislature, in such instance, is not required to provide for partisan participation and the use of political party designations in the election of delegates.<sup>6</sup>

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Footnotes

- 1 Ala.—*City of Bessemer v. Birmingham Elec. Co.*, 252 Ala. 171, 40 So. 2d 193 (1949).
- 2 Ala.—*Opinion of the Justices*, 263 Ala. 151, 81 So. 2d 688 (1955).
- 3 Ill.—*Livingston v. Ogilvie*, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).
- 4 U.S.—*McDaniel v. Paty*, 435 U.S. 618, 98 S. Ct. 1322, 55 L. Ed. 2d 593 (1978).
- 5 Ill.—*Livingston v. Ogilvie*, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).
- 6 Ill.—*Livingston v. Ogilvie*, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).

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## 16 C.J.S. Constitutional Law § 45

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### (2) Character and Powers of Convention

## § 45. Powers of state constitutional convention

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  535

**A constitutional convention is an extraordinary body of representatives of the people convened only on a special occasion for the purpose of amending or revising a state constitution.**

A constitutional convention is not a coordinate branch of the state government<sup>1</sup> but is rather an extraordinary body of representatives of the people convened only on a special occasion for the purpose of amending or revising the state constitution.<sup>2</sup>

A constitutional convention is, therefore, without the power to enact a law to be effective without incorporating it in the constitution for ratification by the people.<sup>3</sup> It is, however, within the power of those who adopt a constitution to make it self-executing, and they may be able to insert in the constitution self-operating provisions of a legislative character.<sup>4</sup> Also, in the absence of a provision in the constitution to the contrary, a constitutional convention is not required to proceed only by bill or ordinance, and the convention may exercise its powers by motion or resolution duly adopted.<sup>5</sup>

*Appointment of committee.*

Although a constitutional convention generally may not appoint a committee, the life of which will be extended beyond the life of the body which creates it,<sup>6</sup> pursuant to a constitutional provision authorizing the convention to submit its work to the voters in such manner as it may decide, a convention has the power to appoint persons to complete and carry out such submission.<sup>7</sup>

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Footnotes

- 1 Tex.—*Bass v. Albright*, 59 S.W.2d 891 (Tex. Civ. App. Texarkana 1933), writ refused.
- 2 Tex.—*Bass v. Albright*, 59 S.W.2d 891 (Tex. Civ. App. Texarkana 1933), writ refused.
- 3 Ala.—*Downs v. City of Birmingham*, 240 Ala. 177, 198 So. 231 (1940).
- 4 Ala.—*Downs v. City of Birmingham*, 240 Ala. 177, 198 So. 231 (1940).  
As to the operation and effect of self-executing constitutional provisions, generally, see §§ 128 to 137.
- 5 Mo.—*State ex rel. News Corp. v. Smith*, 353 Mo. 845, 184 S.W.2d 598 (1945).
- 6 Mont.—*State ex rel. Kvaalen v. Graybill*, 159 Mont. 190, 496 P.2d 1127 (1972).
- 7 Mo.—*State ex rel. News Corp. v. Smith*, 353 Mo. 845, 184 S.W.2d 598 (1945).

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## 16 C.J.S. Constitutional Law § 46

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##### 2. Amendment and Revision of State Constitutions

##### c. Constitutional Conventions

##### (2) Character and Powers of Convention

## § 46. Publication of proposals

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 535

**The people of a state have the right to determine the manner of notice and the times of publication of the proposals of a constitutional convention.**

When the electorate may employ the convention process for amending a state constitution, it follows that the people have the right to determine initially or by ratification the manner and matter of notice and times of publication which they desire or are willing to sanction.<sup>1</sup>

While, in some jurisdictions, a constitutional convention has the implied power to allocate funds for the publication of its proposals,<sup>2</sup> it does not have the power to allocate funds for voter education after the publication of a satisfactory report by a designated state official.<sup>3</sup>

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Footnotes

- 1 Pa.—[Stander v. Kelley](#), 433 Pa. 406, 250 A.2d 474 (1969).
- 2 R.I.—[Sennott v. Hawksley](#), 103 R.I. 730, 241 A.2d 286 (1968).
- 3 Mont.—[State ex rel. Kvaalen v. Graybill](#), 159 Mont. 190, 496 P.2d 1127 (1972).

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## 16 C.J.S. Constitutional Law § 47

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##### (2) Character and Powers of Convention

## § 47. Scope of powers

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 535

**In some jurisdictions, a constitutional convention is deemed to have only such powers as are expressly conferred on it by the act of the legislature pursuant to which it is assembled, together with such implied powers as may be necessary to carry into effect those expressly granted, while in other jurisdictions, the powers of a constitutional convention are construed more liberally.**

In some jurisdictions, the legislature may submit to a popular vote the question of whether to have an unlimited convention, which may alter or abolish any part or all of the constitution, or a convention limited to a revision of specified parts of the constitution only.<sup>1</sup> Indeed, the power of the convention to frame proposed amendments may thus be restricted to the subjects embraced within the terms of the legislative act.<sup>2</sup>

In other jurisdictions, the members of a constitutional convention are deemed the direct representatives of the people<sup>3</sup> and, as such, may exercise all sovereign powers that are vested in the people of the state.<sup>4</sup> In such jurisdictions, the constitutional convention is deemed a legislative body of the highest order<sup>5</sup> and may not only frame but may also enact and promulgate a constitution.<sup>6</sup>

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Footnotes

- 1 Tenn.—[Snow v. City of Memphis](#), 527 S.W.2d 55 (Tenn. 1975).
- 2 Ky.—[Gaines v. O'Connell](#), 305 Ky. 397, 204 S.W.2d 425 (1947).
- 3 Miss.—[Sproule v. Fredericks](#), 69 Miss. 898, 11 So. 472 (1892).
- 4 Iowa—[Koehler v. Hill](#), 60 Iowa 543, 15 N.W. 609 (1883).
- 5 Okla.—[Frantz v. Autry](#), 1907 OK 65, 18 Okla. 561, 91 P. 193 (1907).
- 6 Tex.—[Cox v. Robison](#), 105 Tex. 426, 150 S.W. 1149 (1912).

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## 16 C.J.S. Constitutional Law § 48

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##### d. Proposal of Constitutional Amendments by Legislature

## § 48. Proposal of constitutional amendments by legislature generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑530

**Pursuant to authorization in a state constitution, a constitutional amendment may, in some jurisdictions, be framed and submitted by the legislature, subject only to the constitutional limitations imposed on such power.**

The power to propose amendments to a state constitution is not inherent in the legislative department and does not exist in the absence of a constitutional provision conferring such power.<sup>1</sup> However, where constitutionally provided for, constitutional amendments may be initiated by the legislature.<sup>2</sup>

In so doing, the legislature is not exercising its ordinary legislative power,<sup>3</sup> such as the power to make laws,<sup>4</sup> but is acting as a special organ of government for the purpose of amending the state constitution.<sup>5</sup> Indeed, state legislatures are not authorized to amend their constitutions through passage of a statute.<sup>6</sup>

Where authorized to propose amendments, the legislature's authority in that regard is restricted only by the limitations contained in the state constitution<sup>7</sup> and by the prohibitions of the Federal Constitution.<sup>8</sup>

Nevertheless, while the power to initiate constitutional amendments, when exercised by the legislature, must be exercised within the terms of the grant,<sup>9</sup> as long as constitutional restrictions are not infringed, the wisdom and expediency of submitting a proposed amendment is a matter resting solely within the discretion of the legislative body.<sup>10</sup>

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#### Footnotes

- 1 Utah—[Salt Lake County v. Tax Commission ex rel. Good Shepherd Lutheran Church](#), 548 P.2d 630 (Utah 1976).
- 2 Ga.—[Wheeler v. Board of Trustees of Fargo Consol. School Dist.](#), 200 Ga. 323, 37 S.E.2d 322 (1946).  
Md.—[Stop Slots MD 2008 v. State Bd. of Elections](#), 424 Md. 163, 34 A.3d 1164 (2012).
- 3 Me.—[Opinion of the Justices](#), 261 A.2d 53 (Me. 1970).  
Ohio—[State ex rel. Minus v. Brown](#), 30 Ohio St. 2d 75, 59 Ohio Op. 2d 100, 283 N.E.2d 131 (1972).
- 4 Ala.—[Gafford v. Pemberton](#), 409 So. 2d 1367 (Ala. 1982).
- 5 Me.—[Opinion of the Justices](#), 261 A.2d 53 (Me. 1970).
- 6 Wash.—[City of Bothell v. Barnhart](#), 156 Wash. App. 531, 234 P.3d 264 (Div. 1 2010), decision *aff'd*, 172 Wash. 2d 223, 257 P.3d 648 (2011).
- 7 Kan.—[Moore v. Shanahan](#), 207 Kan. 1, 207 Kan. 645, 486 P.2d 506 (1971).
- 8 La.—[Louisiana Ry. & Nav. Co. v. Madere](#), 124 La. 635, 50 So. 609 (1909).
- 9 Fla.—[Smathers v. Smith](#), 338 So. 2d 825 (Fla. 1976).
- 10 Colo.—[People ex rel. O'Reilly v. Mills](#), 30 Colo. 262, 70 P. 322 (1902).

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## 16 C.J.S. Constitutional Law § 49

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##### d. Proposal of Constitutional Amendments by Legislature

## § 49. Formalities of passage

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  530

**In jurisdictions in which the legislature is constitutionally authorized to propose amendments to a state constitution, constitutional requirements as to such power are to be complied with, and substantial compliance may be sufficient in some states while in other states, strict compliance is required.**

In jurisdictions in which the legislature is constitutionally authorized to propose amendments to a state constitution, it is generally necessary that there is due compliance on the part of the legislature with all constitutional requirements with respect to the formalities of passage as preliminary to the submission to the people for ratification of a proposed constitutional amendment.<sup>1</sup> Although substantial compliance may, in some jurisdictions, be sufficient,<sup>2</sup> strict compliance is, in other jurisdictions, required.<sup>3</sup> Where there is no requirement in the constitution that a proposed constitutional amendment be by bill or joint resolution, the particular form the proposal will take is within the discretion of the legislature.<sup>4</sup>

Pursuant to some constitutions, the legislature may choose either an act or resolution through which to exercise the powers conferred.<sup>5</sup> A state legislature may also propose amendments to a state constitution where constitutionally authorized to do so at either a regular or special session<sup>6</sup> although amendments proposed at a special session may, in some jurisdictions, be dependent on whether proposals for amendments have been included in the proclamation of the governor calling the special session.<sup>7</sup>

***Governor's approval or veto.***

The state governor's veto does not affect the validity of an amendment proposed by the legislature,<sup>8</sup> and his or her approval of a legislative proposed amendment is similarly immaterial.<sup>9</sup>

**CUMULATIVE SUPPLEMENT**

**Cases:**

Ballot title for amendment to Arkansas Constitution proposed by General Assembly Arkansas Term Limits Amendment, which proposed amending the term limits applicable to members of the General Assembly, was sufficiently identifiable and distinct from ballot title for proposed amendment an Amendment to the Arkansas Constitution to amend the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda, and other proposed amendments on ballot and in public. [Ark. Const. art. 19, § 22. Steele v. Thurston, 2020 Ark. 320, 609 S.W.3d 357 \(2020\).](#)

A ballot title on a constitutional amendment proposed by the General Assembly is sufficient unless it is worded in some way so as to constitute a manifest fraud upon the public. [Ark. Const. art. 19, § 22. Steele v. Thurston, 2020 Ark. 320, 609 S.W.3d 357 \(2020\).](#)

**[END OF SUPPLEMENT]**

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**Footnotes**

- 1 N.H.—[Bednar v. King](#), 110 N.H. 475, 272 A.2d 616 (1970).  
As to the ratification of a proposed constitutional amendment, generally, see §§ 73 to 76.
- 2 Fla.—[Revels v. De Goyler](#), 159 Fla. 898, 33 So. 2d 719 (1948).
- 3 Va.—[Coleman v. Pross](#), 219 Va. 143, 246 S.E.2d 613 (1978).
- 4 Del.—[State v. Lyons](#), 40 Del. 77, 5 A.2d 495 (Gen. Sess. 1939).
- 5 Ala.—[Opinion of the Justices](#), 252 Ala. 205, 40 So. 2d 623 (1949).
- 6 Ala.—[In re Opinions of the Justices](#), 222 Ala. 353, 132 So. 311 (1931).  
Iowa—[Olander v. Hollowell](#), 193 Iowa 979, 188 N.W. 667 (1922).
- 7 Colo.—[Pearce v. People](#), 53 Colo. 399, 127 P. 224 (1912).
- 8 Colo.—[People ex rel. Stewart v. Ramer](#), 62 Colo. 128, 160 P. 1032 (1916).
- 9 Ark.—[Coulter v. Dodge](#), 197 Ark. 812, 125 S.W.2d 115 (1939).

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## 16 C.J.S. Constitutional Law § 50

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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## § 50. Formalities of passage—Ordinary legislative rules inapplicable

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  530, 532

**In jurisdictions in which the legislature is constitutionally authorized to frame proposed amendments to a state constitution, the rules of ordinary legislation are inapplicable.**

Because the proposal by a legislature of amendments to a state constitution, where constitutionally authorized, is not the exercise of an ordinary legislative function,<sup>1</sup> it is not subject to the constitutional provisions regulating the introduction and passage of ordinary legislative enactments.<sup>2</sup>

An article of the constitution to be amended may be referred to merely by its title or number, and a requirement applicable to ordinary legislation, such as the requirement that the section as amended be set forth at full length, does not apply.<sup>3</sup> Also, constitutional requirements that bills be read on different days or at different times do not apply to constitutional amendments.<sup>4</sup>

Footnotes

- 1                   § 48.
- 2                   Ala.—*Bonds v. State Dept. of Revenue*, 254 Ala. 553, 49 So. 2d 280 (1950).  
Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).
- 3                   Or.—*Baum v. Newbry*, 200 Or. 576, 267 P.2d 220 (1954).
- 4                   Fla.—*Collier v. Gray*, 116 Fla. 845, 157 So. 40 (1934).

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## 16 C.J.S. Constitutional Law § 51

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### d. Proposal of Constitutional Amendments by Legislature

## § 51. Publication and notice

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  530

**Publication of a constitutional amendment and notice of the election on such amendment are subject to any prescribed time and manner requirements, which are mandatory.**

Publication of a constitutional amendment proposed by the legislature and notice of the election on such amendment are subject to any prescribed time and manner requirements.<sup>1</sup> Constitutional provisions governing procedural requirements for publication and distribution of proposed amendments are not merely directory but also mandatory.<sup>2</sup>

Publication can be caused by a resolution directing publication as well as by formal statute.<sup>3</sup> In either case, substantial compliance with the requirement may be sufficient.<sup>4</sup>

Where provided, it may be the duty of a designated official to prepare publicity pamphlets with regard to a constitutional amendment proposed by the legislature in compliance with constitutional provisions.<sup>5</sup> For example, a constitutional provision

may impose upon the secretary of state alone the duty of publishing a proposed amendment, and such provision prevails over a statute purporting to impose such duty upon others as well as upon the secretary of state.<sup>6</sup>

***Placard descriptions.***

Pursuant to a statute requiring the posting of placards about the polling places describing the proposed amendment, the fact that such cards are not complete in all details will not invalidate the amendment.<sup>7</sup>

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Footnotes

- 1 Colo.—[City of Glendale v. Buchanan](#), 195 Colo. 267, 578 P.2d 221 (1978).  
As to submission of proposed constitutional amendments to the electorate, generally, see §§ 52 et seq.
- 2 Haw.—[Watland v. Lingle](#), 104 Haw. 128, 85 P.3d 1079 (2004), as clarified, (Mar. 19, 2004).
- 3 Idaho—[Mundell v. Swedlund](#), 58 Idaho 209, 71 P.2d 434 (1937).
- 4 Ala.—[Edmonson v. Brewer](#), 282 Ala. 336, 211 So. 2d 469 (1968).
- 5 Ill.—[Knappenberger v. Hughes](#), 377 Ill. 126, 35 N.E.2d 317 (1941).
- 6 Ky.—[Hatcher v. Meredith](#), 295 Ky. 194, 173 S.W.2d 665 (1943).
- 7 Utah—[Snow v. Keddington](#), 113 Utah 325, 195 P.2d 234 (1948).

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## 16 C.J.S. Constitutional Law § 52

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (1) In General

## § 52. Requirement that proposed constitutional amendment be submitted to electorate

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

### A proposed constitutional amendment must be submitted to the electorate in the manner provided.

A state constitution may be amended in the manner provided by it, and when an amendment has been duly made, it becomes as much a part of the constitution as any other part thereof.<sup>1</sup> The state constitution cannot be changed, modified, or amended by governmental fiat; it provides within itself the only method for its amendment.<sup>2</sup> A method provided by the state constitution for the submission of a proposed constitutional amendment to the electorate must be followed.<sup>3</sup>

One method is for the state legislature to submit constitutional amendments for a vote by the people<sup>4</sup> and to prescribe the manner in which the proposed amendments will be submitted.<sup>5</sup> For example, legislative action to submit a proposed amendment may, in some instances, be instigated by means of an initiative petition.<sup>6</sup>

Where so stipulated by a state constitutional provision, a legislature may be authorized to provide, by law, for the submission to the people, for their ratification and adoption, of any constitution or amendment proposed by a constitutional convention.<sup>7</sup> A state constitutional convention may, if such authority is granted by the constitution, adopt a different method for submission of its work to the voters from that provided for the submission of propositions to the electorate by other than a convention.<sup>8</sup>

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Footnotes

- 1 Ga.—[Sherman v. Atlanta Independent School System](#), 293 Ga. 268, 744 S.E.2d 26, 294 Ed. Law Rep. 368 (2013).
- 2 Fla.—[Browning v. Florida Hometown Democracy, Inc., PAC](#), 29 So. 3d 1053 (Fla. 2010).
- 3 Ala.—[In re Opinion of the Justices](#), 252 Ala. 89, 39 So. 2d 665 (1949).
- 4 Ind.—[In re Todd](#), 208 Ind. 168, 193 N.E. 865 (1935).
- 5 Ark.—[Fulkerson v. Refunding Board](#), 201 Ark. 957, 147 S.W.2d 980 (1941).
- 6 Mass.—[Opinion of the Justices](#), 356 Mass. 744, 247 N.E.2d 718 (1969).  
As to the amendment and revision of a state constitution by the initiative procedure, generally, see §§ 34 to 42.
- 7 R.I.—[In re Opinion to the Governor](#), 55 R.I. 56, 178 A. 433 (1935).  
As to the ratification of proposed constitutional amendments by the electorate, generally, see §§ 73 to 76.
- 8 Mo.—[State ex rel. News Corp. v. Smith](#), 353 Mo. 845, 184 S.W.2d 598 (1945).

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## 16 C.J.S. Constitutional Law § 53

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (1) In General

## § 53. Time for submission

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  550

**Depending on the jurisdiction, the time for submission of a proposed constitutional amendment to the electorate may be fixed by the legislature or a specified public officer, and the failure to comply with the time limitation may invalidate the proposed amendment.**

Where the constitution authorizes the fixing of the time for submission of a proposed constitutional amendment to the electorate by the legislature, neither the governor<sup>1</sup> nor any other public officer<sup>2</sup> has authority in this respect.<sup>3</sup> Indeed, the power of the legislature to fix the date of submission includes the power of the legislature to also, by resolution, validly and constitutionally redesignate the election date for a proposed constitutional amendment.<sup>4</sup>

In other jurisdictions, a public officer may have the constitutional authority to select the election date for submission of a constitutional amendment to the people, such as the governor<sup>5</sup> or the secretary of state.<sup>6</sup>

Regulatory provisions as to the time for submission of a constitutional amendments are mandatory provisions, and the failure to comply with such provisions invalidates the proposed amendments.<sup>7</sup> A failure to set a time for submission is not cured by a lapse of time or by a favorable vote of the electorate at an election not validly called.<sup>8</sup>

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Footnotes

- 1 Ala.—*Opinion of the Justices*, 418 So. 2d 107 (Ala. 1982).
- 2 La.—*Graham v. Jones*, 198 La. 507, 3 So. 2d 761 (1941).
- 3 Ala.—*Opinion of the Justices*, 251 Ala. 78, 36 So. 2d 499 (1948).  
La.—*Graham v. Jones*, 198 La. 507, 3 So. 2d 761 (1941).
- 4 Ala.—*Opinion of the Justices*, 418 So. 2d 107 (Ala. 1982).
- 5 Mo.—*State ex rel. Nixon v. Blunt*, 135 S.W.3d 416 (Mo. 2004).
- 6 Colo.—*Matter of Title, Ballot Title, Submission Clause, Summary for No. 26 Concerning School Impact Fees*, 954 P.2d 586 (Colo. 1998).
- 7 Ala.—*Opinion of the Justices*, 361 So. 2d 522 (Ala. 1978).
- 8 Ala.—*Johnson v. Craft*, 205 Ala. 386, 87 So. 375 (1921).  
As to the cure of amendment defects by adoption, generally, see § 76.

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## 16 C.J.S. Constitutional Law § 54

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##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (1) In General

## § 54. Resubmission

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  525

**Under some constitutional provisions, the resubmission of an amendment or a substantially related amendment to the electorate within a specified period of time is prohibited.**

A constitutional provision, limiting the resubmission of an amendment or substantially the same amendment to the electorate within a specified period of time, refers to an amendment on a particular subject or an amendment substantially related to such subject and generally seeks to bar repetitious proposals.<sup>1</sup>

Proposals falling within such prohibition may properly be restrained.<sup>2</sup>

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Footnotes

- 1 N.J.—[Young v. Byrne](#), 144 N.J. Super. 10, 364 A.2d 47 (Law Div. 1976).
- 2 Pa.—[Taylor v. King](#), 284 Pa. 235, 130 A. 407 (1925) (overruled in part on other grounds by, [Stander v. Kelley](#), 433 Pa. 406, 250 A.2d 474 (1969)).

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## 16 C.J.S. Constitutional Law § 55

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (1) In General

## § 55. Form and mode of submission by legislature

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  531, 540

**In the absence of constitutional regulation of the matter, it is competent for a state legislature to prescribe the form of submission of constitutional amendments.**

Proposed constitutional amendments need not contain express provisions for submission of such amendments to the voters where the constitution is silent as to the form of submission.<sup>1</sup> It is, however, competent for the legislature to prescribe the form of submission.<sup>2</sup>

In some jurisdictions, a proposed constitutional amendment may be by joint resolution.<sup>3</sup> However, a constitutional provision may require the presentment to the state governor of a joint resolution proposing a constitutional amendment for his or her approval before the proposed constitutional amendment can be placed on the ballot.<sup>4</sup>

*Effect of existing constitutional provision on that proposed.*

A provision in a joint resolution that the proposed amendment will not go into effect until a time later than that fixed by an existing constitutional provision is inoperative and void unless such proposition is also submitted to the electors and adopted.<sup>5</sup>

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Footnotes

- 1 Ga.—[Clements v. Powell](#), 155 Ga. 278, 116 S.E. 624 (1923).
- 2 Ga.—[Towns v. Suttles](#), 208 Ga. 838, 69 S.E.2d 742 (1952).
- 3 § 49.
- 4 Wyo.—[Geringer v. Bebout](#), 10 P.3d 514 (Wyo. 2000).  
As to the presentation of a constitutional amendment on the ballot, generally, see §§ [56](#) to [60](#).
- 5 Ohio—[City of Euclid v. Heaton](#), 15 Ohio St. 2d 65, 44 Ohio Op. 2d 50, 238 N.E.2d 790 (1968).

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## 16 C.J.S. Constitutional Law § 56

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (2) Presentation of Proposed Amendment on Ballot, in General

##### (a) In General

## § 56. Form of presenting proposed constitutional amendment on ballot

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  556

**The ballot on a constitutional amendment must be in the form, if any, prescribed by the constitution or, where the constitution is silent, in the form prescribed by the legislature.**

The ballot on a state constitutional amendment must be in the form, if any, prescribed by the constitution<sup>1</sup> or, where the constitution is silent, in the form prescribed by the legislature.<sup>2</sup>

An implicit constitutional accuracy requirement applies to all proposed state constitutional amendments and implicitly requires that a proposed amendment be accurately represented on the ballot.<sup>3</sup> However, while the ballot must give voters fair notice of the decision they must make,<sup>4</sup> a ballot is neither intended to be the place where the entire text of an amendment is printed

nor is it a practical place to do so.<sup>5</sup> Additionally, although it is the public's responsibility to educate and familiarize itself on a proposed constitutional amendment,<sup>6</sup> a ballot may not be misleading.<sup>7</sup>

In addition to the ballot summary and title,<sup>8</sup> a ballot may contain an explanatory statement, statement of purpose,<sup>9</sup> submission clause,<sup>10</sup> and a financial impact statement.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Financial impact statement for proposed citizen initiative amendment to Florida Constitution, stating that "[t]he amendment is not expected to result in an increase or decrease in any revenues or costs to state and local government," complied with statutory requirements for a financial impact statement; it was under the 75-word limit, and it clearly and unambiguously explained that no change in revenues or costs was expected. [West's F.S.A. § 100.371\(5\). Advisory Opinion to Atty. Gen. re Rights of Electricity Consumers regarding Solar Energy Choice](#), 188 So. 3d 822 (Fla. 2016).

Ballot question that asked voters whether constitution should be amended to authorize legislature to establish "a surcharge" on investment real property was not clear, as required by statute and state constitution; if amendment would have allowed State to impose independent tax on real property, term "surcharge" did not obviously convey this meaning, and if, instead, amendment would have authorized only a dependent, supplemental charge added to existing tax imposed by counties, ballot question failed to accurately state upon what basis surcharge would have been calculated and levied. [Haw. Const. art. 17, § 3; Haw. Rev. Stat. § 11-118.5. City and County of Honolulu v. State](#), 143 Haw. 455, 431 P.3d 1228 (2018).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Fla.—[Sylvester v. Tindall](#), 154 Fla. 663, 18 So. 2d 892 (1944).
- 2 Ill.—[People ex rel. Schnackenberg v. Czarnecki](#), 256 Ill. 320, 100 N.E. 283 (1912).
- 3 Fla.—[Roberts v. Doyle](#), 43 So. 3d 654 (Fla. 2010).
- 4 Fla.—[Advisory Opinion to Attorney General re 1.35% Property Tax Cap, Unless Voter Approved](#), 2 So. 3d 968 (Fla. 2009).
- 5 N.J.—[Young v. Byrne](#), 144 N.J. Super. 10, 364 A.2d 47 (Law Div. 1976).
- 6 N.J.—[Young v. Byrne](#), 144 N.J. Super. 10, 364 A.2d 47 (Law Div. 1976).
- 7 Ark.—[Priest v. Polk](#), 322 Ark. 673, 912 S.W.2d 902 (1995).
- N.J.—[Young v. Byrne](#), 144 N.J. Super. 10, 364 A.2d 47 (Law Div. 1976).
- 8 §§ 57 to 60.
- 9 Mont.—[Citizens Right to Recall v. State ex rel. McGrath](#), 2006 MT 192, 333 Mont. 153, 142 P.3d 764 (2006).
- 10 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45](#), 234 P.3d 642 (Colo. 2010).
- 11 Fla.—[In re Advisory Opinion to The Attorney General re Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans](#), 992 So. 2d 190 (Fla. 2008).

## 16 C.J.S. Constitutional Law § 57

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##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (2) Presentation of Proposed Amendment on Ballot, in General

##### (a) In General

## § 57. Ballot summary

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  562

**The text of a ballot summary for a proposed constitutional amendment must fairly and accurately present the question or issue to be decided in order to assure a free, intelligent, and informed vote.**

The purpose of a ballot explanatory statement for a proposed constitutional amendment is to inform the electorate, in a more detailed manner than the ballot title, about the nature of the measure being proposed.<sup>1</sup> It should convey the purpose, limitations, and effects of a ballot question<sup>2</sup> and accurately reflect the legal and probable effects of the proposed amendment.<sup>3</sup>

Accordingly, the ballot statement must fairly and accurately present the question or issue to be decided in order to assure a free, intelligent, and informed vote.<sup>4</sup> Its language should not deceive<sup>5</sup> or mislead.<sup>6</sup> The statement ought to be free from any misleading tendency whether of amplification or omission.<sup>7</sup>

The summary's function is to provide voters with enough information to understand what will happen if the measure is approved, that is, to advise voters of the "breadth" of a measure's impact.<sup>8</sup> However, the summary statement is not a treatise<sup>9</sup> and it need not resolve every question about cases at the periphery of the proposal.<sup>10</sup> Indeed, it is not intended to fully educate people on all aspects of the proposal to amend a state constitution, and it need not set out in detail every aspect of the proposal<sup>11</sup> though it must give the ordinary person a clear idea of what he or she is voting for or against.<sup>12</sup>

***Different but synonymous terms.***

The inadvertent use of different but clearly synonymous terms in a proposed constitutional amendment and the summary thereof will not render a ballot summary fatally defective where the differing use of terminology could not reasonably mislead the voter.<sup>13</sup>

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Footnotes

- 1 Or.—*Sizemore v. Myers*, 327 Or. 456, 964 P.2d 255 (1998).
- 2 Pa.—*Grimaud v. Com.*, 581 Pa. 398, 865 A.2d 835 (2005).
- 3 Mo.—*Billington v. Carnahan*, 380 S.W.3d 586 (Mo. Ct. App. W.D. 2012).
- 4 Ohio—*State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St. 3d 257, 2012-Ohio-4149, 978 N.E.2d 119 (2012).
- 5 Mo.—*Billington v. Carnahan*, 380 S.W.3d 586 (Mo. Ct. App. W.D. 2012).
- 6 Cal.—*Yes on 25, Citizens For An On-Time Budget v. Superior Court*, 189 Cal. App. 4th 1445, 118 Cal. Rptr. 3d 290 (3d Dist. 2010).
- Mo.—*Billington v. Carnahan*, 380 S.W.3d 586 (Mo. Ct. App. W.D. 2012).
- 7 Ohio—*State ex rel. Voters First v. Ohio Ballot Bd.*, 133 Ohio St. 3d 257, 2012-Ohio-4149, 978 N.E.2d 119 (2012).
- 8 Or.—*Carson v. Kroger*, 351 Or. 508, 270 P.3d 243 (2012).
- 9 Pa.—*Grimaud v. Com.*, 581 Pa. 398, 865 A.2d 835 (2005).
- 10 Mo.—*Coburn v. Mayer*, 368 S.W.3d 320, 281 Ed. Law Rep. 746 (Mo. Ct. App. W.D. 2012).
- 11 Colo.—*In re Title, Ballot Title and Submission Clause, and Summary for 1999-00 #7256*, 12 P.3d 246 (Colo. 2000).
- 12 N.H.—*Fischer v. Governor*, 145 N.H. 28, 749 A.2d 321 (2000).
- 13 Fla.—*In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions*, 132 So. 3d 786 (Fla. 2014).

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## 16 C.J.S. Constitutional Law § 58

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (2) Presentation of Proposed Amendment on Ballot, in General

##### (b) Ballot Title

## § 58. Ballot title of proposed constitutional amendment generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  558

**Voters are entitled to a ballot title for a proposed state constitutional amendment that is honest, impartial, and intelligible and will give them a fair understanding of the issues presented. Although it must fairly express the intent of a proposed amendment, it need not contain a synopsis of the proposed amendment.**

A ballot title to a proposed amendment to a state constitution must be (1) intelligible, (2) honest, and (3) impartial.<sup>1</sup> It must give voters a fair understanding of the issues presented<sup>2</sup> and the scope and significance of the proposed changes in the law.<sup>3</sup> It must also be brief,<sup>4</sup> accurate,<sup>5</sup> and informative.<sup>6</sup>

A proper ballot title uses terms that reasonably identify the proposed measure's subject matter but do not understate or overstate the scope of the legal changes that the proposed measure will enact.<sup>7</sup> Indeed, the title is required to be a statement of the primary

purpose of the proposed amendment, in clear and unambiguous language.<sup>8</sup> It must be complete enough to convey an intelligible idea of the scope and import of the proposed law.<sup>9</sup> However, it need not contain a synopsis of the amendment.<sup>10</sup>

A ballot title may be required to satisfy a statutory requirement that it reasonably identify the consequence of the voters' adoption or rejection of a measure.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Ballot summary for constitutional amendment to end commercial dog racing in connection with wagering did not mislead voters to conclude that amendment would end all racing of all dogs, and thus was not defective; while ballot title "ENDS DOG RACING" permitted that conclusion if taken in isolation, ballot summary clarified that amendment prohibited only "commercial dog racing in connection with wagering." [Department of State v. Florida Greyhound Association, Inc.](#), 253 So. 3d 513 (Fla. 2018).

Inclusion of four different topics did not render invalid the ballot title and summary of proposed constitutional amendment to provisions governing state and local government structure and operation; each proposal related to state and local government structure and operation, summary provided adequate description of amendment's chief purpose as it related to constitutional officers, and there was no basis to accept argument that voters would be more likely to vote for amendment because of ordering of provisions within summary. [Fla. Stat. Ann. § 101.161\(1\)](#). [County of Volusia v. Detzner](#), 253 So. 3d 507 (Fla. 2018).

Phrase unfunded actuarial liability did not need to be placed in quotation marks in ballot title's caption, for proposed state measure to add constitutional provision regarding public pensions, despite contention that phrase was ambiguous; phrase had accepted meaning under state statute, and proposed measure's text was consistent with that meaning. [Or. Rev. Stat. §§ 238.605\(2\), 250.035\(2\)\(a\)](#). [Parrish v. Rosenblum](#), 365 Or. 597, 450 P.3d 973 (2019).

Ballot title's caption, which included phrase commission over-represents rural areas, was deficient for using term non-neutral term over-represents, despite it being necessary for caption to convey that initiative petition would have configured new commission in way that gave rural areas relatively more influence over reapportioning process than population centers; word over-represents was likely to prejudice voters against initiative petition because it appeared to include judgment that representation of rural areas would have been excessive. [Or. Const. art. 4, § 6](#); [Or. Rev. Stat. § 250.035\(2\)\(a\)](#). [Fletcher v. Rosenblum](#), 365 Or. 98, 442 P.3d 193 (2019).

While the fact that voters would likely understand that, under constitutional initiative petition, individuals who rely on public funds will have restricted access to abortions if those funds are unavailable, was not a valid justification for failing to identify it in the ballot title caption, the caption did not need to inform voters that the effect of its enactment would be reduced access to abortions, because the certified caption substantially complied with the statutory provision governing the form of ballot titles and local measures in that it correctly identified the subject matter of the initiative as precluding expenditure of public funds for abortions. [West's Or. Rev. Stat. Ann. § 250.035\(2\)\(a\)](#). [Cross v. Rosenblum](#), 359 Or. 136, 373 P.3d 125 (2016).

## [END OF SUPPLEMENT]

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### Footnotes

<sup>1</sup> Ark.—[Cox v. Martin](#), 2012 Ark. 352, 423 S.W.3d 75 (2012).

- 2 Ark.—[Kurrus v. Priest](#), 342 Ark. 434, 29 S.W.3d 669 (2000).
- 3 Ark.—[Cox v. Daniels](#), 374 Ark. 437, 288 S.W.3d 591 (2008).
- 4 Colo.—[In re Proposed Initiative Bingo-Raffle Licensees \(I\)](#), 915 P.2d 1320 (Colo. 1996).
- 5 Fla.—[Roberts v. Doyle](#), 43 So. 3d 654 (Fla. 2010).
- 6 Fla.—[Advisory Opinion to the Atty. Gen. re: £Voluntary Universal Pre-Kindergarten Educ.](#), 824 So. 2d 161, 169 Ed. Law Rep. 449 (Fla. 2002).
- 7 Or.—[Kain v. Myers](#), 337 Or. 36, 93 P.3d 62 (2004).
- Subject matter defined**  
The subject matter of a proposed constitutional amendment is the actual major effect of the proposed amendment or, if the proposed amendment has more than one major effect, all such effects.
- Or.—[Whitsett v. Kroger](#), 348 Or. 243, 230 P.3d 545 (2010).
- 8 Fla.—[Advisory Opinion to the Atty. Gen. re: £Voluntary Universal Pre-Kindergarten Educ.](#), 824 So. 2d 161, 169 Ed. Law Rep. 449 (Fla. 2002).
- 9 Ark.—[Cox v. Daniels](#), 374 Ark. 437, 288 S.W.3d 591 (2008).
- 10 Ark.—[Roberts v. Priest](#), 341 Ark. 813, 20 S.W.3d 376 (2000).
- Not necessary to list subsets of measure's subject**  
Or.—[Mannix v. Kulongoski](#), 323 Or. 485, 918 P.2d 839 (1996).
- 11 Or.—[Whitsett v. Kroger](#), 348 Or. 243, 230 P.3d 545 (2010).

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## 16 C.J.S. Constitutional Law § 59

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##### e. Submission of Proposed Amendments to Electorate

##### (2) Presentation of Proposed Amendment on Ballot, in General

##### (b) Ballot Title

## § 59. Prohibitions

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  558

**A ballot title must not be misleading in any way. It must not omit material information or misstate existing law.**

The ballot title of a proposed state constitutional amendment must not be misleading.<sup>1</sup> It must not contain misleading tendencies that, whether by amplification, omission, or fallacy, thwart a fair understanding of the issues presented.<sup>2</sup> Accordingly, it must not misstate existing law even by implication.<sup>3</sup>

A ballot title must not be set out in terms that will confuse potential voters.<sup>4</sup> It cannot identify the subject matter of a proposed measure by assuming that voters are aware of its subject matter instead of stating it.<sup>5</sup> Nor may the title omit material information that would give the voters serious ground for reflection.<sup>6</sup>

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Footnotes

- 1 Cal.—Yes on 25, *Citizens For An On-Time Budget v. Superior Court*, 189 Cal. App. 4th 1445, 118 Cal. Rptr. 3d 290 (3d Dist. 2010).  
Fla.—*Roberts v. Doyle*, 43 So. 3d 654 (Fla. 2010).
- 2 Ark.—*Cox v. Daniels*, 374 Ark. 437, 288 S.W.3d 591 (2008).
- 3 Or.—*Sizemore v. Kulongoski*, 322 Or. 229, 905 P.2d 1146 (1995), decision modified on other grounds on reconsideration, 322 Or. 387, 908 P.2d 825 (1995).
- 4 Or.—*Kain v. Myers*, 337 Or. 36, 93 P.3d 62 (2004).
- 5 Or.—*Kain v. Myers*, 337 Or. 36, 93 P.3d 62 (2004).
- 6 Ark.—*Cox v. Daniels*, 374 Ark. 437, 288 S.W.3d 591 (2008).

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## 16 C.J.S. Constitutional Law § 60

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##### (2) Presentation of Proposed Amendment on Ballot, in General

##### (b) Ballot Title

## § 60. Sufficiency of ballot title

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  558

**A ballot title must be legally sufficient to convey to voters the intelligible scope and import of the proposed constitutional amendment.**

A ballot title for a proposed amendment to a state constitution must be legally sufficient to convey to voters the intelligible scope and import of the proposed constitutional amendment.<sup>1</sup>

The title is sufficient if it informs the voters with such clarity that they can cast their ballot with a fair understanding of the issue presented.<sup>2</sup> It is sufficient and fair if it makes the subject evident with sufficient clearness to give notice of the purpose to those interested or affected by the proposal.<sup>3</sup> A sufficiently clear title enables the electorate, whether familiar or unfamiliar with the

subject matter of a particular proposal, to determine intelligently whether to support or oppose a proposal for a constitutional amendment.<sup>4</sup>

***Length of title.***

While length is a consideration, it is by no means a determining factor on the question of the sufficiency of a ballot title for a proposed constitutional amendment.<sup>5</sup>

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Footnotes

- 1 Ark.—[Richardson v. Martin](#), 2014 Ark. 429, 444 S.W.3d 855 (2014).
- 2 Ark.—[Cox v. Martin](#), 2012 Ark. 352, 423 S.W.3d 75 (2012).
- 3 Mo.—[Missouri Municipal League v. Carnahan](#), 303 S.W.3d 573 (Mo. Ct. App. W.D. 2010), as modified, (Feb. 2, 2010).
- 4 Colo.—[In re Title, Ballot Title, Submission Clause for 2011-2012 No. 45](#), 2012 CO 26, 274 P.3d 576 (Colo. 2012).
- 5 Ark.—[Crochet v. Priest](#), 326 Ark. 338, 931 S.W.2d 128 (1996).

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## 16 C.J.S. Constitutional Law § 61

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##### e. Submission of Proposed Amendments to Electorate

##### (3) Rules Assuring Amendment Singularity

##### (a) Separate Vote or Amendment Rule

## § 61. Requirement that each state constitutional amendment be voted on separately

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  551

**Under the separate vote or amendment rule, if more than one constitutional amendment is to be submitted to the voters at the same time, the amendments must be submitted in such a manner that each amendment may be voted on separately.**

It may be required by a state constitution's separate vote provision that where more than one amendment is to be submitted to the electorate at the same time, the amendments must be submitted in such a manner that the electors may vote on each amendment separately.<sup>1</sup>

Under a separate vote provision,<sup>2</sup> similarly referred to as the separate amendment rule,<sup>3</sup> unrelated subject matters within a single proposition are characterized as separate amendments which must be submitted to the voters separately<sup>4</sup> even if they are proposed by the legislature in a single resolution.<sup>5</sup>

To constitute multiple amendments within the meaning of the separate amendment rule, propositions submitted must relate to more than one subject and have at least two distinct and separate purposes not dependent upon or connected with each other.<sup>6</sup> However, where an amendment contains multiple proposed changes but all are incidental to the main object or purpose of the measure, there is no violation of the separate amendment rule.<sup>7</sup> Accordingly, it is within the discretion of the legislature to submit several distinct propositions as one constitutional amendment if they relate to the same subject matter and are designed to accomplish one general purpose.<sup>8</sup>

The separate vote requirement focuses on the form of submission of an amendment and the potential changes to the existing constitution that the amendment proposes.<sup>9</sup>

### *Application.*

In some states, the separate vote requirement relates to voter initiatives in addition to legislative proposals<sup>10</sup> while in other states, the constitution's separate vote provision applies to constitutional amendment proposals by the legislature only.<sup>11</sup>

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### Footnotes

- 1 Miss.—*Mississippi Waste of Hancock County, Inc. v. Board of Sup'rs of Hancock County*, 818 So. 2d 326 (Miss. 2001).
- 2 Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).
- 3 Ariz.—*Clean Elections Institute, Inc. v. Brewer*, 209 Ariz. 241, 99 P.3d 570 (2004).
- 4 Wash.—*Carlson v. San Juan County*, 183 Wash. App. 354, 333 P.3d 511 (Div. 1 2014).
- 5 Wis.—*Appling v. Walker*, 2014 WI 96, 358 Wis. 2d 132, 853 N.W.2d 888 (2014).
- 6 Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).
- 7 Wash.—*Carlson v. San Juan County*, 183 Wash. App. 354, 333 P.3d 511 (Div. 1 2014).
- 8 Wis.—*McConkey v. Van Hollen*, 2010 WI 57, 326 Wis. 2d 1, 783 N.W.2d 855 (2010).
- 9 Or.—*State v. Rogers*, 352 Or. 510, 288 P.3d 544 (2012).
- 10 Or.—*Novick v. Myers*, 333 Or. 154, 36 P.3d 486 (2001).
- 11 Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

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## 16 C.J.S. Constitutional Law § 62

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##### (3) Rules Assuring Amendment Singularity

##### (a) Separate Vote or Amendment Rule

## § 62. Purpose

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  551

**The constitutional mandate that multifarious amendments must be submitted separately prevents deceit and logrolling and affords voters the freedom of choice.**

The separate vote requirement of a state constitution is aimed at ensuring that the voters are able to express their will in one vote as to only one constitutional change.<sup>1</sup>

The constitutional mandate that multifarious amendments must be submitted separately has the objective of preventing imposition of a deceit of the public by the presentation of a proposal which is misleading or the effect of which is concealed or not readily understandable and the objective of affording the voters freedom of choice.<sup>2</sup> Accordingly, the purpose of the separate vote requirement is to prevent "logrolling"<sup>3</sup> or the combining of unrelated proposals in order to secure approval by appealing

to different groups which will support the entire proposal in order to secure some part of it although perhaps disapproving of other parts.<sup>4</sup>

Logrolling is the practice of combining dissimilar propositions into one proposed amendment so that voters must vote for or against the whole package even though they would have voted differently had the propositions been submitted separately.<sup>5</sup> Logrolling is also described as including favored but unrelated propositions in a proposed amendment to ensure passage of a provision that might otherwise fail.<sup>6</sup>

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Footnotes

- 1 Or.—*State v. Rogers*, 352 Or. 510, 288 P.3d 544 (2012).
- 2 Ohio—*State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St. 3d 315, 2010-Ohio-1845, 928 N.E.2d 410 (2010).
- 3 Ariz.—*Kerby v. Luhrs*, 44 Ariz. 208, 36 P.2d 549, 94 A.L.R. 1502 (1934).  
Ohio—*State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St. 3d 315, 2010-Ohio-1845, 928 N.E.2d 410 (2010).  
The prevention of logrolling as a purpose of the single subject rule also is discussed, generally, in § 65.
- 4 Ohio—*State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St. 3d 315, 2010-Ohio-1845, 928 N.E.2d 410 (2010).
- 5 Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).
- 6 Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

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##### (a) Separate Vote or Amendment Rule

## § 63. Determination of validity

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  551

**A natural and necessary connection or a common purpose or principal test may be applied to determine the validity of a constitutional provision. An alternative inquiry is whether, if adopted, a proposal would make two or more changes to the state constitution that are substantive and are not closely related.**

The natural and necessary connection test may be applied to determine whether a proposed constitutional amendment violates the state separate vote constitutional provision.<sup>1</sup>

Similarly, under the common purpose or principle test, a proposed constitutional amendment violates the separate amendment rule inasmuch as it incorporates two separate constitutional amendments.<sup>2</sup> This test requires the court to consider (1) whether

a proposition's provisions are topically related and (2) whether they are sufficiently interrelated so as to form a consistent and workable proposition.<sup>3</sup>

Alternatively, the inquiry may be whether, if adopted, a proposal would make two or more changes to the constitution that are substantive and are not closely related. If so, the proposal violates the constitutional separate vote requirement because it would prevent voters from expressing their opinions as to each proposed change separately.<sup>4</sup> There are two principles that are important to determining whether a ballot measure makes two or more changes to a state constitution that require separate votes: (1) if a measure proposes to add new matter to the constitution, the measure proposes at least one constitutional change; (2) if a measure has the effect of modifying an existing constitutional provision, it proposes at least one additional change to the constitution whether that effect is express or implicit.<sup>5</sup>

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#### Footnotes

- 1 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).  
The natural and necessary connection test is set out in § 66.
  - 2 Ariz.—[Clean Elections Institute, Inc. v. Brewer](#), 209 Ariz. 241, 99 P.3d 570 (2004).
  - 3 Ariz.—[Save Our Vote, Opposing C-03-2012 v. Bennett](#), 231 Ariz. 145, 291 P.3d 342 (2013).
  - 4 Or.—[Lincoln Interagency Narcotics Team v. Kitzhaber](#), 341 Or. 496, 145 P.3d 151 (2006).
  - 5 Or.—[State v. Rogers](#), 352 Or. 510, 288 P.3d 544 (2012).
- Application of separate vote requirements**  
Depending on the jurisdiction, the constitutional separate vote provision may impose the same requirements to amendments proposed by the legislature as the single subject provision applies to initiatives.  
Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).

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## 16 C.J.S. Constitutional Law § 64

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##### (3) Rules Assuring Amendment Singularity

##### (b) Single Subject Rule

## § 64. Definition of single subject rule for constitutional amendment initiatives

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  526, 553

**The single subject rule provides that the various provisions of an initiative measure must be reasonably related to a common theme or purpose and may not contain two or more distinct subjects for voter approval in a single vote.**

The single subject requirement, which may be based on constitutional language to the effect that no proposal for a constitutional amendment which is submitted to the voters may embrace more than one general subject,<sup>1</sup> requires that every amendment proposed by initiative contain only one subject<sup>2</sup> and that the various provisions of the initiative measure are reasonably related to a common theme or purpose.<sup>3</sup> In other words, a voter initiative may not contain two or more distinct subjects for voter approval in a single vote.<sup>4</sup>

An initiative has one subject if all of its provisions are connected with a central purpose.<sup>5</sup> Additionally, a measure may encompass one subject and yet effect several changes and incidents if all are germane to its one controlling purpose.<sup>6</sup> Proposed constitutional amendments will be liberally and nonrestrictively construed so that provisions connected with or incident to effectuating the central purpose will not be treated as separate subjects.<sup>7</sup>

***Application.***

With certain exceptions by which the single subject requirement is extended to apply to proposed legislative amendments,<sup>8</sup> the single subject requirement applies only to petitions proposing a constitutional amendment by voter initiative.<sup>9</sup>

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**Footnotes**

- 1 Okla.—[Eastern Oklahoma Bldg. & Const. Trades Council v. Pitts](#), 2003 OK 113, 82 P.3d 1008 (Okla. 2003).
- 2 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).  
As to judicial review of constitutional amendments under the single subject rule, generally, see § 72.
- 3 Cal.—[Senate of State of Cal. v. Jones](#), 21 Cal. 4th 1142, 90 Cal. Rptr. 2d 810, 988 P.2d 1089 (1999).
- 4 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).
- 5 Mo.—[Kuehner v. Kander](#), 442 S.W.3d 224, 310 Ed. Law Rep. 558 (Mo. Ct. App. W.D. 2014).
- 6 Mo.—[Kuehner v. Kander](#), 442 S.W.3d 224, 310 Ed. Law Rep. 558 (Mo. Ct. App. W.D. 2014).  
As to the definition of "germane" for these purposes, generally, see § 66.
- 7 Mo.—[Kuehner v. Kander](#), 442 S.W.3d 224, 310 Ed. Law Rep. 558 (Mo. Ct. App. W.D. 2014).
- 8 Ga.—[Perdue v. O'Kelley](#), 280 Ga. 732, 632 S.E.2d 110 (2006).  
La.—[Forum for Equality PAC v. McKeithen](#), 893 So. 2d 715 (La. 2005).  
Okla.—[Eastern Oklahoma Bldg. & Const. Trades Council v. Pitts](#), 2003 OK 113, 82 P.3d 1008 (Okla. 2003).
- 9 Fla.—[Advisory Opinion to Atty. Gen. re Term Limits Pledge](#), 718 So. 2d 798 (Fla. 1998).  
Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).  
Or.—[Novick v. Myers](#), 333 Or. 154, 36 P.3d 486 (2001).

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### Constitutional Law

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; John Bourdeau, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Michael N. Giuliano, J.D.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D., of the staff of the National Legal Research Group, Inc.; Jill Gustafson, J.D.; Glenda K. Harnad, J.D.; Alan J. Jacobs, J.D.; John Kimpflen, J.D.; Amy L. Kruse, J.D.; Stephen Lease, J.D.; Sonja Larsen, J.D.; Robert B. McKinney, J.D., of the staff of the National Legal Research Group, Inc.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Thomas Muskus, J.D.; Sally J.T. Necheles, J.D., LL.M.; Karl Oakes, J.D. and Eric C. Surette, J.D.

### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (3) Rules Assuring Amendment Singularity

##### (b) Single Subject Rule

## § 65. Purpose

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  526, 553, 555

**The single subject requirement applicable to the citizen initiative method of amending the constitution has several purposes, such as the prevention of "log rolling" and voter surprise and the substantial alteration of multiple branches of the state's government.**

The single subject requirement of a state constitution is born of the fact that the citizen initiative method of amending a constitution does not afford the same opportunity for public hearing and debate that accompanies the proposal and drafting processes of the other methods of amending the constitution.<sup>1</sup>

It is a rule of restraint designed to insulate a state's organic law from precipitous and cataclysmic change and prevents a proposal from substantially altering or performing the functions of multiple branches of state government.<sup>2</sup>

It is intended to prevent initiative proponents from joining incongruous subjects in the same measure,<sup>3</sup> thus preventing voters from being confused or misled and ensuring that each proposal depends upon its own merits for passage.<sup>4</sup> By prohibiting multiple subjects in one proposed initiative, the single subject rule protects against fraud and surprise occasioned by the inadvertent passage of a surreptitious provision coiled up in the folds of a complex initiative.<sup>5</sup>

The single subject requirement, as applied to a citizen initiative method of amending the constitution, also prevents the practice of log rolling<sup>6</sup> wherein several separate issues are rolled into a single initiative in order to aggregate votes or secure approval of an otherwise unpopular issue.<sup>7</sup>

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#### Footnotes

- 1 Fla.—*In re Advisory Opinion to Atty. Gen. ex rel. Local Trustees*, 819 So. 2d 725, 167 Ed. Law Rep. 552 (Fla. 2002).
- 2 Fla.—*In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions*, 132 So. 3d 786 (Fla. 2014).
- 3 Colo.—*In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45*, 234 P.3d 642 (Colo. 2010).
- 4 Colo.—*Hayes v. Ottke*, 2013 CO 1, 293 P.3d 551 (Colo. 2013).
- 5 Colo.—*In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45*, 234 P.3d 642 (Colo. 2010).
- 6 Fla.—*Advisory Opinion to Atty. Gen. re Water and Land Conservation—Dedicates Funds to Acquire and Restore Florida Conservation and Recreation Lands*, 123 So. 3d 47 (Fla. 2013).  
Neb.—*State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).
- 7 Fla.—*In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions*, 132 So. 3d 786 (Fla. 2014).

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## 16 C.J.S. Constitutional Law § 66

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (3) Rules Assuring Amendment Singularity

##### (b) Single Subject Rule

## § 66. Standard for compliance

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  526, 553

**Jurisdictions apply different standards or tests to constitutional amendments proposed by citizen initiative in order to determine compliance with the single subject requirement.**

An amendment to a constitution proposed as a citizen initiative must manifest a logical and natural oneness of purpose in order to satisfy the single subject requirement.<sup>1</sup>

The standard for whether an initiative proposed constitutional amendment embraces only a single subject as required by a state constitution is satisfied so long as the amendment addresses a single substantive area of law even if it includes a wide range of connected matters intended to accomplish the goal of that single subject.<sup>2</sup> Similarly, a proposed initiative that tends to carry out one general, broad objective or purpose does not violate a state constitutional single subject requirement.<sup>3</sup> Nor does an

initiative which contains several purposes violate such requirement as long as the purposes are all interrelated.<sup>4</sup> However, a proponent's attempt to characterize an initiative under some overarching theme will not save an initiative that contains separate and unconnected purposes from violating the state constitutional single subject rule.<sup>5</sup>

One test of whether a constitutional amendment violates the multiple subject matter rule is whether all of the parts of the amendment are germane to the accomplishment of a single objective.<sup>6</sup> What is "germane" is that which is in close relationship appropriate, relevant, or pertinent to the general subject of the constitutional amendment.<sup>7</sup>

Also, a voter initiative with separate provisions does not violate the single subject rule if the provisions have a natural and necessary connection with each other and together are part of one general subject.<sup>8</sup> Under the natural and necessary connection test, an initiative measure is valid if it does not: (1) compel voters to vote for or against distinct propositions in a single vote—when they might not do so if presented separately; (2) confuse voters on the issues they are asked to decide; or (3) create doubt as to what action they have authorized after the election.<sup>9</sup>

An initiative violates the rule when provisions seeking to accomplish one purpose are coupled with provisions proposing a change in governmental powers that bear no necessary or proper connection to the central purpose of the initiative.<sup>10</sup>

### ***Repeal of multiple subjects.***

A proposed initiative contains multiple subjects, in violation of the single subject requirement, not only when it proposes new provisions constituting multiple subjects but also when it proposes to repeal multiple subjects.<sup>11</sup>

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#### Footnotes

- 1 Fla.—[In re Advisory Opinion to Atty. Gen. ex rel. Local Trustees](#), 819 So. 2d 725, 167 Ed. Law Rep. 552 (Fla. 2002).
- 2 Or.—[State v. Mercer](#), 269 Or. App. 135, 344 P.3d 109 (2015).
- 3 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45](#), 234 P.3d 642 (Colo. 2010).
- 4 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45](#), 234 P.3d 642 (Colo. 2010).
- 5 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 45](#), 234 P.3d 642 (Colo. 2010).
- 6 Ga.—[Perdue v. O'Kelley](#), 280 Ga. 732, 632 S.E.2d 110 (2006).
- 7 La.—[Forum for Equality PAC v. McKeithen](#), 893 So. 2d 715 (La. 2005).
- 8 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).
- 9 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).
- 10 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 91](#), 235 P.3d 1071 (Colo. 2010).
- 11 Colo.—[Matter of Title, Ballot Title, and Submission Clause for 2013-2014 #76](#), 2014 CO 52, 333 P.3d 76 (Colo. 2014).

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## 16 C.J.S. Constitutional Law § 67

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (4) Judicial Review of Submission

##### (a) Judicial Review of Ballot, in General

## § 67. Form of review of initiative ballot for constitutional amendment

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  556

**In reviewing a proposed constitutional amendment, the court must determine whether the form of the ballot complies with state constitutional requirements and whether any part of the ballot is misleading.**

In determining the validity of a legislative proposal containing a constitutional amendment for submission to the public, the only proper question for the state supreme court on review is whether the form of ballot actually used complies with the state constitution.<sup>1</sup> The court has an obligation to review a ballot as a whole to ensure that no part of the ballot is misleading.<sup>2</sup> However, the court does not consider or review the substantive merits or the wisdom of the amendment.<sup>3</sup>

When reviewing a ballot proposal, a state supreme court must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people.<sup>4</sup> Indeed, it must, in reviewing a proposed citizen initiative amendment to the state constitution, uphold the proposal unless it can be shown to be clearly and conclusively defective.<sup>5</sup>

Petitioners challenging the validity of a legislative proposal containing a constitutional amendment for submission to the public bear the burden of demonstrating that the ballot question as framed is so unreasonable and misleading as to be a palpable evasion of the constitutional requirement to submit the law to a popular vote and that therefore an error exists that the court must correct.<sup>6</sup>

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#### Footnotes

- 1 Minn.—[League of Women Voters Minnesota v. Ritchie](#), 819 N.W.2d 636 (Minn. 2012).
- 2 Fla.—[Advisory Opinion to Attorney General re Standards For Establishing Legislative District Boundaries](#), 2 So. 3d 161 (Fla. 2009).
- 3 Fla.—[Florida Educ. Ass'n v. Florida Dept. of State](#), 48 So. 3d 694, 262 Ed. Law Rep. 723 (Fla. 2010).
- 4 Fla.—[Roberts v. Brown](#), 43 So. 3d 673 (Fla. 2010).
- 5 Fla.—[In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions](#), 132 So. 3d 786 (Fla. 2014).
- 6 Minn.—[League of Women Voters Minnesota v. Ritchie](#), 819 N.W.2d 636 (Minn. 2012).

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## 16 C.J.S. Constitutional Law § 68

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (4) Judicial Review of Submission

##### (a) Judicial Review of Ballot, in General

## § 68. Ballot title and summary, generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  558, 562, 571

**The ballot title and summary, when viewed together, must be accurate and sufficient, and they cannot be misleading.**

The purpose of limited judicial review of official action in setting titles and summaries for proposed initiative measures is to ensure that the title and summary fairly reflect the measure so that voters will not be misled to vote for or against the proposed initiative merely by virtue of the particular words employed by the official entity.<sup>1</sup>

When determining whether a ballot title and summary are misleading, it is appropriate to consider both together.<sup>2</sup> Indeed, when a state supreme court has the power of de novo review over a challenge to the submission of a proposed constitutional amendment to the electorate, it may consider whether any portion of the title and summary is misleading even if such claim is not raised by the parties.<sup>3</sup>

In assessing the ballot title and summary for compliance with a statute codifying the accuracy requirement implicit in a state constitutional provision governing the submission of proposed constitutional amendments to the electorate, the court will presume that the average voter has a certain amount of common understanding and knowledge.<sup>4</sup>

To determine whether the ballot title and summary of a proposed constitutional amendment are sufficient, a state supreme court is required to consider two questions: (1) whether the ballot title and summary, in clear and unambiguous language, fairly inform the voter of the chief purpose of the amendment and (2) whether the language of the title and summary, as written, misleads the public.<sup>5</sup>

A ballot initiative title and summary, when prepared by a state officer, must be upheld if reasonable minds may differ as to sufficiency.<sup>6</sup> Because all legitimate presumptions should be indulged in favor of the propriety of the officer's actions, only in a clear case should a title and summary so prepared be held insufficient.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Failure of ballot title to inform voters of how proposed amendment to State Constitution concerning casino gambling would impact certain laws did not render ballot title misleading; ballot title was not required to state every detail of an amendment or how it would work in every situation, nor was it required to account for every possible occurrence that might impose some effect upon the amendment's operation, particularly those that were speculative. [Stiritz v. Martin, 2018 Ark. 281, 556 S.W.3d 523 \(2018\)](#).

Ballot title for initiated measure which proposed amendment to constitution to allow issuance of certain casino licenses, stating that proposed amendment would require that applicants "submit either a letter of support from the county judge or a resolution from the quorum court in the county where the casino would be located and, if the proposed casino is to be located within a city, a letter of support from the mayor of that city," did not mislead voters into believing that local officials retained power to approve or disapprove of a casino in their community; title did nothing more than accurately describe requirement to obtain letter of support, and most voters would understand term "letter of support" without further explanation. [Knight v. Martin, 2018 Ark. 280, 556 S.W.3d 501 \(2018\)](#).

Ballot title for proposed constitutional amendment allowing operation of casinos did not honestly and accurately reflect what was contained in the proposed amendment, and thus was insufficient; ballot title stated that amendment would permit sports gambling, but federal law prohibited sports gambling in the state. [Ark. Const. art. 5, § 1; 28 U.S.C.A. § 3702. Lange v. Martin, 2016 Ark. 337, 500 S.W.3d 154 \(2016\)](#).

Ballot title for proposed constitutional amendment limiting attorney contingency fees and non-economic damages in actions for medical injury was insufficient for failing to define the term "non-economic damages"; term was a technical term not readily understood by voters and, absent a definition of the term, voters would be in the position of having to guess as to the effect of their votes. [Wilson v. Martin, 2016 Ark. 334, 500 S.W.3d 160 \(2016\)](#).

Undefined phrase "fundamental right" was not an impermissible catch phrase as used in title of proposed initiative that sought to amend Colorado Constitution to establish a right to a healthy environment; specifying that the new right was a "fundamental right" merely alerted voters that it was to be given primary importance. [Matter of Title, Ballot Title and Submission Clause for 2015-2016 #63, 2016 CO 34, 370 P.3d 628 \(Colo. 2016\)](#).

The ballot title and summary statutory requirements serve to ensure that the ballot summary and title provide fair notice of the content of the proposed constitutional amendment to voters so that they will not be misled as to the proposed amendment's purpose, and can cast an intelligent and informed ballot. [Fla. Stat. Ann. § 101.161\(1\)](#). [Advisory Opinion to the Attorney General re All Voters Vote in Primary Elections for State Legislature, Governor, and Cabinet.](#), 291 So. 3d 901 (Fla. 2020).

Ballot title and summary of proposed constitutional amendment providing that school board would operate, control, and supervise all free public schools established by district board within school district did not include clear statement of chief purpose of revision and failed to inform voters of its true meaning and ramifications; summary did not explain who or what, other than district school boards, currently had authority to establish public schools, which categories of public schools would be affected, and who or what would have authority to establish future public schools, and summary failed to explain which public schools or categories of public schools would be affected. [Fla. Stat. Ann. § 101.161\(1\)](#). [Detzner v. League of Women Voters of Florida](#), 256 So. 3d 803 (Fla. 2018).

Ballot title and summary of proposed constitutional amendment providing that school board would operate, control, and supervise all free public schools established by district board within school district did not include clear statement of chief purpose of revision and failed to inform voters of its true meaning and ramifications; summary did not explain who or what, other than district school boards, currently had authority to establish public schools, which categories of public schools would be affected, and who or what would have authority to establish future public schools, and summary failed to explain which public schools or categories of public schools would be affected. [Fla. Stat. Ann. § 101.161\(1\)](#). [Detzner v. League of Women Voters of Florida](#), 256 So. 3d 803 (Fla. 2018).

The "no" result statement contained in ballot title for initiative petition (IP) to amend State constitution's free-expression provision to permit enactment of a statute to allow law "regulating" contributions/expenditures made to influence elections failed to provide a description of the current law, as required; the result statement was tautological, stating no more than a rejection of the proposed amendment would cause the constitution not to be amended without addressing the substance of current law on the subject matter of the proposed measure. [Or. Const. art. 1, § 8](#); [Or. Rev. Stat. § 250.035\(2\)\(a\)](#). [Markley v. Rosenblum](#), 362 Or. 531, 413 P.3d 966 (2018).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 [Colo.—In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 215, 3 P.3d 11 \(Colo. 2000\).](#)
- 2 [Fla.—In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions, 132 So. 3d 786 \(Fla. 2014\).](#)
- 3 [Fla.—Roberts v. Doyle, 43 So. 3d 654 \(Fla. 2010\).](#)
- 4 [Fla.—Roberts v. Doyle, 43 So. 3d 654 \(Fla. 2010\).](#)
- 5 [Fla.—Florida Dept. of State v. Slough, 992 So. 2d 142 \(Fla. 2008\).](#)
- 6 [Cal.—Yes on 25, Citizens For An On-Time Budget v. Superior Court, 189 Cal. App. 4th 1445, 118 Cal. Rptr. 3d 290 \(3d Dist. 2010\).](#)
- 7 [Cal.—Yes on 25, Citizens For An On-Time Budget v. Superior Court, 189 Cal. App. 4th 1445, 118 Cal. Rptr. 3d 290 \(3d Dist. 2010\).](#)

## 16 C.J.S. Constitutional Law § 69

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##### 2. Amendment and Revision of State Constitutions

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##### (4) Judicial Review of Submission

##### (a) Judicial Review of Ballot, in General

## § 69. Ballot title

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  558, 571

**A ballot title is reviewed for substantial compliance with applicable requirements. In making its determination, the court may examine the text of the proposed measure itself. The challenger has the burden of proving that the title is misleading or insufficient.**

The function of the court in connection with a consideration of the ballot title of a proposed state constitutional amendment is to determine whether the title is a concise and impartial statement of the purpose of the measure or whether it is insufficient or unfair.<sup>1</sup> However, the court may not interpret a proposed amendment or discuss its merits or faults.<sup>2</sup>

A state supreme court reviews a certified ballot title for substantial compliance with applicable requirements<sup>3</sup> on a de novo basis.<sup>4</sup> The issue of the sufficiency of the ballot title of the proposed amendment is a matter of law to be decided by the court.<sup>5</sup>

A state constitutional provision governing ballot titles is to be construed liberally in determining the sufficiency of ballot titles.<sup>6</sup> All legitimate presumptions must be indulged in favor of the propriety of the official action relating to the ballot title, and only in a clear instance will a title, as prepared, be deemed invalid.<sup>7</sup>

***Burden of proof.***

The burden is on the party challenging the sufficiency of a ballot title to prove that it is misleading or insufficient.<sup>8</sup>

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**Footnotes**

- 1 Colo.—[In re An Initiated Constitutional Amendment Respecting Rights of Public to Uninterrupted Services by Public Emp.](#), 199 Colo. 409, 609 P.2d 631 (1980).
- 2 Ark.—[Richardson v. Martin](#), 2014 Ark. 429, 444 S.W.3d 855 (2014).
- 3 Or.—[Rasmussen v. Kroger](#), 350 Or. 271, 253 P.3d 1037 (2011).
- 4 Fla.—[Roberts v. Doyle](#), 43 So. 3d 654 (Fla. 2010).
- 5 Ark.—[Cox v. Daniels](#), 374 Ark. 437, 288 S.W.3d 591 (2008).
- 6 Ark.—[Richardson v. Martin](#), 2014 Ark. 429, 444 S.W.3d 855 (2014).
- 7 Colo.—[Matter of Title, Ballot Title and Submission Clause, and Summary Pertaining to Casino Gaming Initiative Adopted on April 21, 1982](#), 649 P.2d 303 (Colo. 1982).
- 8 Ark.—[Richardson v. Martin](#), 2014 Ark. 429, 444 S.W.3d 855 (2014).

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## 16 C.J.S. Constitutional Law § 70

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (4) Judicial Review of Submission

##### (a) Judicial Review of Ballot, in General

## § 70. Ballot summary

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  562, 571

**The language used in a summary statement of a proposed constitutional amendment must be fair and impartial and must not deceive or mislead. However, it need not be the best language for describing the amendment.**

For purposes of a statute that governs the content of a summary statement of a constitutional amendment, the language used should fairly and impartially summarize the purposes of the measure so that the voters will not be deceived or misled, and it should accurately reflect the legal and probable effects of the proposed amendment.<sup>1</sup> However, the summary statement need not be the best language for describing the amendment.<sup>2</sup>

The critical test in determining whether the language of the summary statement for a ballot measure to amend a state constitution is sufficient and fair is whether the language fairly and impartially summarizes the purposes of the measure so that the voters will

not be deceived or misled.<sup>3</sup> A summary statement is sufficient and fair if it makes the subject evident with sufficient clearness to give notice of the purpose to those interested or affected by the proposal.<sup>4</sup>

A case challenging the summary for a proposed constitutional amendment is reviewed de novo.<sup>5</sup>

***Mootness.***

Where the court lacked authority to order that an individual or issue be placed on the ballot less than six weeks before the election date, the appeal was moot in an action in which the plaintiff challenged the sufficiency and fairness of a summary statement on a state primary election ballot regarding a proposed constitutional amendment.<sup>6</sup>

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**Footnotes**

- 1 Mo.—[Billington v. Carnahan](#), 380 S.W.3d 586 (Mo. Ct. App. W.D. 2012).
- 2 Mo.—[Billington v. Carnahan](#), 380 S.W.3d 586 (Mo. Ct. App. W.D. 2012).
- 3 Mo.—[Coburn v. Mayer](#), 368 S.W.3d 320, 281 Ed. Law Rep. 746 (Mo. Ct. App. W.D. 2012).
- 4 Mo.—[Coburn v. Mayer](#), 368 S.W.3d 320, 281 Ed. Law Rep. 746 (Mo. Ct. App. W.D. 2012).
- 5 Fla.—[Roberts v. Doyle](#), 43 So. 3d 654 (Fla. 2010).
- 6 Mo.—[Dotson v. Kander](#), 435 S.W.3d 643 (Mo. 2014).

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## 16 C.J.S. Constitutional Law § 71

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### Constitutional Law

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (4) Judicial Review of Submission

##### (b) Separate Vote and Single Subject Requirements

## § 71. Review under separate vote or amendment rule

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  551, 571

**When a proposed constitutional amendment is challenged on the ground that it violates a separate vote requirement, the proper inquiry is to determine whether, if adopted, the proposal will make two or more changes to the constitution that are substantive and not closely related.**

An alleged violation of the separate vote provision of a state constitution challenges a ballot measure's legal sufficiency.<sup>1</sup>

When faced with a claim that a proposed constitutional amendment offends a constitutional separate vote requirement, the proper judicial inquiry is whether, if adopted, the proposal would make two or more changes to the constitution that are substantive and that are not closely related.<sup>2</sup> A court's focus on the proposed changes to the state constitution, as an element for determining whether a proposed initiative contains two or more constitutional amendments that must be voted on separately, is not on the

form of the amendment itself but rather on the effect its enactment would have on the constitution.<sup>3</sup> The court must determine not merely whether the amendments might touch other parts of the constitution when applied but also whether the amendments facially affect other parts of the constitution; that is, whether the single ballot question patently affects other constitutional provisions, not whether it implicitly has such an effect.<sup>4</sup>

In determining whether a proposition complies with the separate amendment rule of a state constitution, the state supreme court examines whether provisions of the proposed amendment are sufficiently related to a common purpose or principle that the proposal can be said to constitute a consistent and workable whole on the general topic embraced, that, logically speaking, should stand or fall as a whole.<sup>5</sup>

### *Nature of review.*

Whether an initiative violates the separate amendment rule presents a question of law,<sup>6</sup> which the state supreme court reviews de novo.<sup>7</sup>

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### Footnotes

- 1 Neb.—[State ex rel. Loontjer v. Gale](#), 288 Neb. 973, 853 N.W.2d 494 (2014).  
As to the separate vote rule, generally, see §§ 61 to 63.
- 2 Or.—[State v. Rogers](#), 352 Or. 510, 288 P.3d 544 (2012).
- 3 Or.—[Dale v. Keisling](#), 167 Or. App. 394, 999 P.2d 1229 (2000) (abrogated on other grounds by, [Lehman v. Bradbury](#), 333 Or. 231, 37 P.3d 989 (2002)).
- 4 Pa.—[Grimaud v. Com.](#), 581 Pa. 398, 865 A.2d 835 (2005).
- 5 Ariz.—[Save Our Vote, Opposing C-03-2012 v. Bennett](#), 231 Ariz. 145, 291 P.3d 342 (2013).
- 6 Ariz.—[Arizona Together v. Brewer](#), 214 Ariz. 118, 149 P.3d 742 (2007).
- 7 Ariz.—[McLaughlin v. Bennett](#), 225 Ariz. 351, 238 P.3d 619 (2010).

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## 16 C.J.S. Constitutional Law § 72

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### e. Submission of Proposed Amendments to Electorate

##### (4) Judicial Review of Submission

##### (b) Separate Vote and Single Subject Requirements

## § 72. Review under single subject rule

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  553, 555, 571

**To ascertain whether a proposed amendment to a state constitution meets the single subject requirement, the court must decide whether the amendment has a logical and natural oneness of purpose and whether it alters the functions of multiple governmental branches. The court will overturn an official finding that an initiative contains a single subject only in a clear case.**

In evaluating whether a proposed amendment violates the single subject requirement of a state constitution, the supreme court must determine whether it has a logical and natural oneness of purpose.<sup>1</sup> Additionally, the court must decide whether the proposed constitutional amendment substantially alters or performs the functions of multiple governmental branches, in which case it violates the single subject test.<sup>2</sup>

A state supreme court employs all legitimate presumptions in favor of the propriety of official action and will overturn an official finding that an initiative contains a single subject, so as to comply with the state constitution, only in a clear case.<sup>3</sup>

***Severance.***

The single subject rule permits the court to sever an offending provision from a multiple proposal constitutional amendment.<sup>4</sup>

***Amendment construction.***

A state court applies general rules of statutory construction in the interpretation of an amendment and accords the language of an initiative its plain meaning.<sup>5</sup> Constitutional amendments will be liberally and nonrestrictively construed so that provisions connected with or incident to effectuating the central purpose will not be treated as separate subjects.<sup>6</sup>

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Footnotes

- 1 Fla.—[In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Medical Conditions](#), 132 So. 3d 786 (Fla. 2014).  
As to the single subject requirement, generally, see §§ 64 to 66.
- 2 Fla.—[Advisory Opinion to Attorney General re Standards For Establishing Legislative Dist. Boundaries](#), 2 So. 3d 175 (Fla. 2009).
- 3 Colo.—[Matter of Title, Ballot Title and Submission Clause for 2013-2014 #129](#), 2014 CO 53, 333 P.3d 101 (Colo. 2014).
- 4 Ariz.—[Clean Elections Institute, Inc. v. Brewer](#), 209 Ariz. 241, 99 P.3d 570 (2004).
- 5 Colo.—[In re Title, Ballot Title, Submission Clause for 2009-2010 No. 91](#), 235 P.3d 1071 (Colo. 2010).
- 6 Mo.—[Kuehner v. Kander](#), 442 S.W.3d 224, 310 Ed. Law Rep. 558 (Mo. Ct. App. W.D. 2014).

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## 16 C.J.S. Constitutional Law § 73

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### f. Approval and Ratification of Amendment

## § 73. Approval and ratification of constitutional amendment by the people

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑540

**Approval and ratification by the people is one method by which a proposed constitutional amendment becomes effective.**

Unless an alternative provision exists, it is when the people have approved and ratified a proposed amendment initiated in the legislature that a constitutional amendment occurs.<sup>1</sup> Accordingly, prior to ratification by the people, a proposed legislative amendment is of no effect whatever.<sup>2</sup>

The legislature may provide for the holding of an election for ratification or rejection of a proposed amendment.<sup>3</sup> Although a constitutional convention has the power to enact and promulgate a constitution, constitutional amendments must ordinarily be submitted and adopted by a free vote of the people as a condition precedent to becoming effective.<sup>4</sup>

***Mode of ratification.***

Long established usage may be followed in the ratification of proposed constitutional amendments,<sup>5</sup> and the ordinary forms of election may be employed without special authority.<sup>6</sup>

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Footnotes

- 1 Wis.—*State ex rel. Ozanne v. Fitzgerald*, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436 (2011).
- 2 Ala.—*In re Opinion of the Justices*, 252 Ala. 89, 39 So. 2d 665 (1949).  
**Amendment not self-executing**  
Where implementation of a state constitutional amendment is not self-executing and thus requires legislative enactment, the amendment is not effective until legislation is passed under its authority.  
Ga.—*Goldrush II v. City of Marietta*, 267 Ga. 683, 482 S.E.2d 347 (1997).
- 3 Ala.—*City of Bessemer v. Birmingham Elec. Co.*, 252 Ala. 171, 40 So. 2d 193 (1949).
- 4 Mass.—*Opinion of the Justices*, 362 Mass. 907, 287 N.E.2d 910 (1972).  
As to ratification of a constitutional amendment as affecting the time of its taking effect, generally, see § 115.
- 5 Colo.—*Nesbit v. People*, 19 Colo. 441, 36 P. 221 (1894).
- 6 N.H.—*Opinion of the Justices*, 114 N.H. 711, 327 A.2d 713 (1974).

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## 16 C.J.S. Constitutional Law § 74

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### f. Approval and Ratification of Amendment

## § 74. Vote necessary to adopt

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  567

**The question as to the number of votes required to ratify a state constitutional amendment depends on the phraseology of the constitution itself or of the act submitting the amendment, but in either event, the requisite number of votes must be obtained.**

The question as to the number of votes required to ratify a state constitutional amendment necessarily depends largely on the phraseology of the constitution itself or of the act submitting the amendment.<sup>1</sup> In either case, the requisite number of votes must be obtained in order to constitute a ratification of the amendment.<sup>2</sup>

Approval by a major portion of those voting on the amendment is sufficient pursuant to constitutional provisions requiring a ratification of a constitutional amendment by a "majority of the electors,"<sup>3</sup> a "majority of votes,"<sup>4</sup> "a majority of the electors voting at the election,"<sup>5</sup> or a "majority of the votes cast."<sup>6</sup>

In some jurisdictions, however, a provision that a majority of the electors ratify the proposed amendment requires that a majority of all the electors voting at the election at which the amendment is submitted vote to ratify the amendment, not merely a majority of those voting on that proposition.<sup>7</sup> A constitutional requirement that a majority of the electors voting at an election at which the amendment is submitted must ratify a proposed constitutional amendment generally requires that a major part of the highest vote cast for any purpose at the election in which the proposed amendment is submitted vote for the amendment.<sup>8</sup>

Where constitutionally provided, a proposed amendment affecting only one or more subdivisions of the State must receive a majority of the votes cast by the qualified electors of the particular political subdivision/s affected.<sup>9</sup>

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Footnotes

- 1 Ark.—[Combs v. Gray](#), 170 Ark. 956, 281 S.W. 918 (1926).
- 2 Minn.—[Minnesota Civil Liberties Union v. State](#), 302 Minn. 216, 224 N.W.2d 344 (1974).
- 3 Idaho—[Green v. State Board of Canvassers](#), 5 Idaho 130, 47 P. 259 (1896).
- 4 Ind.—[In re Todd](#), 208 Ind. 168, 193 N.E. 865 (1935).  
**Majority of voting electors sufficient**  
Ind.—[Simmons v. Byrd](#), 192 Ind. 274, 136 N.E. 14 (1922).
- 5 Mont.—[State ex rel. Cashmore v. Anderson](#), 160 Mont. 175, 500 P.2d 921 (1972).
- 6 N.D.—[State v. State Board of Canvassers](#), 44 N.D. 126, 172 N.W. 80 (1919).
- 7 Wyo.—[State ex rel. Blair v. Brooks](#), 17 Wyo. 344, 99 P. 874 (1909).
- 8 Okla.—[State ex rel. Hayman v. State Election Bd.](#), 1937 OK 617, 181 Okla. 622, 75 P.2d 861 (1937).
- 9 Ga.—[Henderson v. Metropolitan Atlanta Rapid Transit Authority](#), 236 Ga. 849, 225 S.E.2d 424 (1976).

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## 16 C.J.S. Constitutional Law § 75

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### PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

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##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### f. Approval and Ratification of Amendment

## § 75. Counting votes and declaring results

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑566

**Some state constitutions contain express provision for the canvassing of the vote, but to the extent that it is not prescribed by the constitution, a state legislature may prescribe the method of counting the votes and declaring the result on the submission of a constitutional amendment to the electorate.**

Some state constitutions contain an express provision for the canvassing of the vote.<sup>1</sup> To the extent, however, that it is not prescribed by the constitution, the state legislature may prescribe the method of counting the votes and declaring the result on the submission of a constitutional amendment to the electorate.<sup>2</sup>

A contest of the declared result must be conducted in the time and manner statutorily prescribed.<sup>3</sup> In a collateral proceeding, the certificate of political authorities that an amendment is ratified is conclusive<sup>4</sup> and, on direct attack, can be overthrown only by clear and satisfactory evidence.<sup>5</sup>

Pursuant to a constitutional provision that a ratified amendment be proclaimed by the governor and published in such manner as the general assembly directs, steps constituting a substantial compliance with the constitutional requirement are sufficient in the absence of such legislative action.<sup>6</sup> Such a proclamation cannot, however, give rise to a conclusive presumption of regularity in the adoption of the amendment.<sup>7</sup> Accordingly, until such time as an amendment is declared ratified by the proper authority, its ratification is not established.<sup>8</sup>

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Footnotes

- 1 Neb.—*Swanson v. State*, 132 Neb. 82, 271 N.W. 264 (1937).
- 2 Ala.—*City of Bessemer v. Birmingham Elec. Co.*, 252 Ala. 171, 40 So. 2d 193 (1949).
- 3 Minn.—*In re McConaughy*, 106 Minn. 392, 119 N.W. 408 (1909).
- 4 Pa.—*Armstrong v. King*, 281 Pa. 207, 126 A. 263 (1924) (overruled in part on other grounds by, *Stander v. Kelley*, 433 Pa. 406, 250 A.2d 474 (1969)).
- 5 Minn.—*In re McConaughy*, 106 Minn. 392, 119 N.W. 408 (1909).
- 6 Ky.—*Denton v. Pulaski County*, 170 Ky. 33, 185 S.W. 481 (1916).
- 7 Or.—*Boyd v. Olcott*, 102 Or. 327, 202 P. 431 (1921).
- 8 Ga.—*Houser v. Hartley*, 157 Ga. 137, 120 S.E. 622 (1923).

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## 16 C.J.S. Constitutional Law § 76

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#### II. Establishment and Amendment of Constitutions

##### B. Amendment and Revision

##### 2. Amendment and Revision of State Constitutions

##### f. Approval and Ratification of Amendment

## § 76. Effect of adoption; cure of defects

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  572

**When a constitutional amendment is proposed, published, and submitted to the people and adopted by them without any question being raised prior to the election, the effect of a favorable vote by the people is, in certain cases, to cure defects in the form of the submission.**

In determining the validity of a constitutional amendment, where the constitutional requirements for submission of the amendment to the electors have been fulfilled, and the amendment is submitted to the electors, and that amendment is adopted, every reasonable presumption,<sup>1</sup> both of law and fact,<sup>2</sup> will be indulged in favor of its validity.<sup>3</sup>

Thus, when an amendment is proposed, published, and submitted to the people and adopted by them without any question being raised prior to the election as to the method by which the amendment gets before them, the effect of a favorable vote by the people may be to cure defects in the form of the submission.<sup>4</sup>

However, implicit in the constitutional requirement for submitting a proposed constitutional amendment to the voters is the requirement that the proposed amendment be accurately represented on the ballot; otherwise, voter approval is a nullity.<sup>5</sup>

Accordingly, a challenge to a proposed constitutional amendment, based on an allegation that the ballot measure combines separate and incongruous amendments, may properly be made after the adoption of the ballot measure by the electorate as such challenge deals with the substance of the amendment rather than procedures used to present the proposed amendment to the electorate.<sup>6</sup> Similarly, if an initiative proposed amendment violates the single subject requirement because it is double or multifarious, the defect is substantive, and the amendment is void even if adopted.<sup>7</sup> Further, the voters' approval of a proposed constitutional amendment will not cleanse the amendment of defects in the title.<sup>8</sup>

### ***Burden of proof.***

The burden of showing invalidity is on the party challenging the amendment.<sup>9</sup>

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### Footnotes

- 1 Ark.—[Forrester v. Martin](#), 2011 Ark. 277, 383 S.W.3d 375 (2011).  
 Colo.—[Table Services, LTD v. Hickenlooper](#), 257 P.3d 1210 (Colo. App. 2011).  
 Nev.—[Miller v. Burk](#), 124 Nev. 579, 188 P.3d 1112 (2008).
- 2 Ark.—[Forrester v. Martin](#), 2011 Ark. 277, 383 S.W.3d 375 (2011).  
 Nev.—[Miller v. Burk](#), 124 Nev. 579, 188 P.3d 1112 (2008).
- 3 Ark.—[Forrester v. Martin](#), 2011 Ark. 277, 383 S.W.3d 375 (2011).  
 Colo.—[Table Services, LTD v. Hickenlooper](#), 257 P.3d 1210 (Colo. App. 2011).  
 Nev.—[Miller v. Burk](#), 124 Nev. 579, 188 P.3d 1112 (2008).
- 4 Ark.—[Chaney v. Bryant](#), 259 Ark. 294, 532 S.W.2d 741 (1976).  
 Fla.—[Floridians Against Expanded Gambling v. Floridians for a Level Playing Field](#), 945 So. 2d 553 (Fla. 1st DCA 2006).  
**Improper time of submission**  
 Pa.—[Taylor v. King](#), 284 Pa. 235, 130 A. 407 (1925) (overruled in part on other grounds by, [Stander v. Kelley](#), 433 Pa. 406, 250 A.2d 474 (1969)).
- 5 Fla.—[Armstrong v. Harris](#), 773 So. 2d 7 (Fla. 2000).
- 6 Idaho—[Idaho Watersheds Project v. State Board of Land Commissioners](#), 133 Idaho 55, 982 P.2d 358 (1999).
- 7 Mo.—[Moore v. Brown](#), 350 Mo. 256, 165 S.W.2d 657 (1942).  
 As to the rules assuring amendment singularity, generally, see §§ 61 to 66.
- 8 Fla.—[Armstrong v. Harris](#), 773 So. 2d 7 (Fla. 2000).
- 9 Ark.—[Roberts v. Priest](#), 341 Ark. 813, 20 S.W.3d 376 (2000).

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